

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

5
6
7
8
9 APRIL 15, 2003

10
11
12 APPEARANCES:

13 MASON BRENT, GAS & OIL INDUSTRY REPRESENTATIVE

14 KEN MITCHELL, CITIZEN APPOINTEE

15 BENNY WAMPLER, DIRECTOR OF THE DMME & CHAIRMAN

16 DONALD RATLIFF, COAL INDUSTRY REPRESENTATIVE

DENNIS GARBIS, PUBLIC MEMBER

16 JIM MCINTYRE, CITIZEN APPOINTEE

17
18 SHARON PIGEON, COUNSEL FOR THE BOARD WITH THE ATTORNEY
GENERAL'S OFFICE

19 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND
PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

20

21

22

23

24

--

1		<u>INDEX</u>	
2	<u>AGENDA AND DOCKET NUMBERS:</u>	<u>UNIT</u>	<u>PAGE</u>
3	** Minutes of last meeting		3
4	1) Report on the escrow account		4
5	2) VGOB-02-11/19-1101	V-505369	12
6	3) VGOB-03-03/18-1126	V-535431	24
7	4-8) VGOB-03-04/15-1136	AV-118	48
8		AV-119	
9		BA-113	
10	6-7) VGOB-03-04/15-1138	AW-93	63
11		AZ-100	
12	9-10) VGOB-03-04/15-1141	CC-31	72
13		FF-33	
14	11-12) VGOB-03-04/15-1143	R-17 & Q-17	83
15		S-17 & S-19	
16	13) VGOB-03-04/15-1145	VC-505247	33
17	14) VGOB-03-04/15-1146	VC-505090	39
18	** Next month's meeting		93
19	** Adopt Fee Legislation of the General Assembly		93
20	** Consol Energy Company's name merger		99
21	and name change		
22	***Copy of agenda attached		
23			
24			
--			

1 BENNY WAMPLER: Good morning. My name is Benny
2 Wampler. I'm Deputy Director for the Virginia Department of
3 Mines, Minerals and Energy, and Chairman of the Gas and Oil
4 Board. I'll ask the Board members to introduce themselves,
5 starting with Mr. Brent.

6 MASON BRENT: My name is Mason Brent. I'm from
7 Richmond and I represent the gas and oil industry.

8 KEN MITCHELL: My name is Ken Mitchell. I'm from
9 Stafford County, Virginia. I am a citizen appointee.

10 SHARON PIGEON: I'm Sharon Pigeon. I'm with the
11 office of the Attorney General.

12 DONALD RATLIFF: I'm Donald Ratliff. I'm the coal
13 industry representative from Wise County.

14 DENNIS GARBIS: My name is Dennis Garbis. I'm a
15 public member from Fairfax County.

16 JIM MCINTYRE: Jim McIntyre, from Wise, Virginia,
17 citizen appointee.

18 BOB WILSON: I'm Bob Wilson. I'm the Director of
19 the Division of Gas and Oil and principal executive to the
20 staff of the Board.

21 BENNY WAMPLER: Before we get started on the first
22 agenda item, I would like to ask the Board to look at the
23 minutes. I think all of you received them from the last
24 hearing. I'll entertain a motion to approve unless there's

--

1 changes to those minutes.

2 KEN MITCHELL: I so move.

3 DONALD RATLIFF: Second.

4 BENNY WAMPLER: Motion and second to approve. Any
5 further discussion?

6 (No audible response.)

7 BENNY WAMPLER: All in favor, signify by saying
8 yes.

9 (All members signify by saying yes.)

10 BENNY WAMPLER: Opposed, say no.

11 (No audible response.)

12 BENNY WAMPLER: We have approval of that. The
13 first item on the agenda is the Board will receive a
14 quarterly report on the Board's escrow account as
15 administered by First Union Bank, our escrow agent. Mr.
16 Wilson, do you want to update us on that?

17 BOB WILSON: Yes. At the end of March...March the
18 31st, 2003, we're showing a balance in the escrow account of
19 \$6,948,114.37. With a beginning balance as of the end last
20 year \$6,988,647.25. During the period, we have received
21 deposits of \$233,937.72. We have had interest applied to the
22 account in the amount of \$18,805.03. That's presently coming
23 in at a rate of 1.16%. We had a rather unusual amount of
24 disbursements this time. There was kind of a catch up from

--

1 some of the disbursements that we authorized back in the
2 fall, \$263,260.81 of the account was disbursed to owners who
3 had reached royalty split agreements.

4 Our fees that we pay by contract to the bank,
5 \$5,000 per month, were extracted during February. As we have
6 explained in the past, they pull these fees twice a year.
7 So, they pulled \$30,000 from the account in February to cover
8 the fees. That \$30,000 is subtracted from the total. As you
9 can see, they always, in their report, show the \$5,000 per
10 month. But, again, as I explained earlier, they did not
11 remove that on a per month basis.

12 You'll notice also that in January there was a
13 \$14.82 debit made to the account. This was a closed account
14 that some money was inadvertently sent in for, the deposit
15 was made, the error was found and then the account was
16 debited that amount and was sent back to the operator.

17 I have no other items to report relative to the
18 escrow agent at this time.

19 BENNY WAMPLER: Questions from members of the
20 Board?

21 KEN MITCHELL: Mr. Chairman, I have a couple quick
22 ones.

23 BENNY WAMPLER: Mr. Mitchell.

24 KEN MITCHELL: Bob, I notice in January the

--

1 deposits were \$17,913. I notice February, they're
2 90...almost 92 and March they're 124. That strikes me...and
3 I'm sure there's a very logical reason. 17, 94 and 124, is
4 there a reason for...shouldn't more funds have come in during
5 that month or maybe missing---?

6 BOB WILSON: No, actually the fluxation in the
7 monthly deposit depends entirely on when checks arrive in the
8 bank. They have a drop dead date which they cut off the
9 accounting for the previous month, and if the checks are not
10 in on that date, then they're accounted for in the next
11 month's accounting. And I would assume, without having done
12 a detailed checking, that this was the end of the year
13 catching up period that some of the checks didn't get in
14 until late, probably due to the holidays or something of that
15 sort. So, they were accounted for in February probably
16 rather than in January. It fluxates substantially from month
17 to month.

18 KEN MITCHELL: My...my question, with that
19 explanation...or I should say my follow up question, is...is
20 there a penalty for those that deposit a check...or checks
21 late? I mean, 17 is a low number and the next month is 91.
22 Is there a penalty for those people that didn't get their
23 checks in on time? Is there an---?

24 BOB WILSON: No, there's not. And I don't think

--

1 there is a time established by which that money has to be
2 deposited.

3 KEN MITCHELL: Okay. I'm...I'm concerned there.
4 But we'll fight that issue another time.

5 On the interest rate, I saw it went in January from
6 1.20 to 1.7 to 1.6...1.16, I'm sorry. So, I drew a little
7 stair step. I thought it was kind of different. It's kind
8 of like the steps leading into my house, but it's a step
9 that's going down rather than going up. So, can you...can
10 you give me...is that...are their money markets down because
11 I know we're investing it in their own money markets or
12 whatever?

13 BOB WILSON: Yeah, this is their government...
14 basically, government money market account in which they put
15 government entities. Again, without having checked directly,
16 I'd have to assume that this is just reflecting the down
17 trend in interest rates. It's...it's...I believe it's hinged
18 on the prime rate. As that is dropped, so is our interest
19 rates.

20 KEN MITCHELL: So, this...so, this is based on the
21 prime?

22 BOB WILSON: I'd have to check on that, but I'm
23 pretty sure that's correct, that governs it.

24 KEN MITCHELL: Not today, but the next meeting

--

1 could you follow up and verify that that's based on prime?

2 BOB WILSON: I certainly...I certainly will.

3 KEN MITCHELL: Because I...I just hate to see that

4 go down, down and down. I guess...I...I...thank you, sir.

5 Thank you, Mr. Chairman.

6 BENNY WAMPLER: Any other questions from members of

7 the Board?

8 MASON BRENT: Yes, sir.

9 BENNY WAMPLER: Mr. Brent.

10 MASON BRENT: On the disbursements, Bob, you

11 indicated that some of those represented orders back in the

12 fall.

13 BOB WILSON: Uh-huh.

14 MASON BRENT: What's...what their explanation as to

15 why they were all not paid until the month of March?

16 BOB WILSON: Unfortunately, that lies with us and

17 not the bank. We...this had to do with the backlog of orders

18 that we had. They actually, for probably the first time,

19 have gotten all of the disbursements out within ten days of

20 the receipt at their bank. We are now...in the orders, are

21 giving them a ten days period to write the check after they

22 get it. We're sending the order to them certified mail so

23 that we know when they get it. And, generally, sending email

24 at the same time to let them that they're coming. And these

--

1 all went out within ten days of their receipt of the order.
2 So, unfortunately, the uphold was within our handling of the
3 orders and not the bank.

4 MASON BRENT: And we're caught up now?

5 BOB WILSON: Yes. Yes. We have...I think they
6 have four disbursements in-house right now that they got
7 probably on Monday. I got a note yesterday that they're
8 being processed for payment this week. So, they are going
9 out within ten days.

10 Now, insofar as other orders and that sort of
11 thing, I'm not sure where we stand on overall. But insofar
12 as the disbursements and the bank we're all...all clear on
13 that.

14 MASON BRENT: And just a follow up to Mr.
15 Mitchell's question about deposits made by producers to the
16 bank. I thought I heard you say there is no time line for
17 when they have to make those deposits.

18 BOB WILSON: I don't...I don't know of a deadline
19 date that's included in any orders or in the regulation that
20 says how much time can elapse between the end of a production
21 month and when that money has to go into the account.
22 I'd...I'd have to look to see. But I---.

23 MASON BRENT: If I'm a producer, I could just hold
24 that money indefinitely?

--

1 BOB WILSON: I'd...I'd have to look back at the
2 orders and see if there are any things that actually control
3 that. The...basically the way it's structured, the orders
4 state that the money has to be paid into the account based on
5 production. But I don't...I don't recall anything that says
6 it must be paid within, say, something like forty-five days
7 of the end of the month that you're reporting or anything
8 like that. Sharon, do you know if there's anything in there
9 that governs that? I don't recall anything.

10 SHARON PIGEON: I'm not recalling anything
11 specifically either. But I'm a little surprised as you are
12 that---.

13 BOB WILSON: Yeah.

14 SHARON PIGEON: ---we are sort of leaving the gap
15 there it would appear.

16 BOB WILSON: This may be something else that I need
17 to do a bit of research on and get back to you. I don't
18 recall anything that does it and I don't recall us having
19 come up...any questions come up before, not since I have been
20 here. But I'll do better research and see that if you'd
21 like.

22 BENNY WAMPLER: Mr. Garbis.

23 DENNIS GARBIS: Is there any evidence to indicate
24 there's any abuse?

--

1 BOB WILSON: I don't have any, no. The only
2 problems that we have ever found with money being placed into
3 the account have stemmed from basically accounting mistakes
4 where an order specified that money was go to the account,
5 but it got picked up wrong by the operator and we've gone
6 back and corrected those without any problem and had that
7 money brought up to date with interest. But I don't know of
8 any abuse that has been...I haven't audited it either.

9 MASON BRENT: Well, I doubt it is. But if you look
10 at this first quarter, as Mr. Mitchell mentioned, that can
11 tell you right there that there is abuse. I can see January
12 being low because people are trying to get it all into the
13 right year. So, you know, they catch it up and get into '02.
14 But, you know, maybe if some of that 124,000 in March really
15 belonged in...you know, should have been deposited in January
16 or February. Who knows? It's worth checking on, I think.

17 BOB WILSON: I will...I will do that.

18 SHARON PIGEON: Well, if we were behind on pooling
19 orders, though, wouldn't that effect these deposits being
20 made in setting up the escrows accounts?

21 MASON BRENT: Sure.

22 SHARON PIGEON: So, I mean, all of this backlog
23 that we have being carrying since the reorganization of
24 August 1, I think is perhaps reflected in these numbers.

--

1 MASON BRENT: Yeah, I'm not suggesting this is
2 abuse. I'm just saying---.

3 SHARON PIGEON: Uh-huh. But I think that's the
4 partial explanation for it. It might not be the whole
5 explanation, but I think that explains part of it.

6 BOB WILSON: I will bring in facts to the next
7 hearing. How about that?

8 BENNY WAMPLER: That sounds good. He'll address
9 whether or not the order has a time limit to initiate---.

10 BOB WILSON: Yes.

11 BENNY WAMPLER: ---deposits---.

12 BOB WILSON: Yes.

13 BENNY WAMPLER: ---and then whether or not that
14 order requires a monthly deposit.

15 BOB WILSON: Yes. I will do that.

16 MASON BRENT: Thank you.

17 BENNY WAMPLER: Any questions or comments?
18 (No audible response.)

19 BENNY WAMPLER: Thank you. The next item on the
20 agenda is a petition from Equitable Production Company for
21 pooling of a conventional gas unit V-505369, docket number
22 VGOB-02-11/19-1101. We'd ask the parties that wish to
23 address the Board in this matter to come forward at this
24 time.

--

1 JIM KISER: Mr. Chairman and members of the Board,
2 Jim Kiser on behalf of Equitable Production Company. Our
3 witness in this matter and matters following this will be Mr.
4 Don Hall. We'd ask that he be sworn at this time.

5 (Don Hall is duly sworn.)

6 BENNY WAMPLER: The record will show there are no
7 others. You may proceed.

8 JIM KISER: We've got some revised sets of various
9 Exhibit Bs and their counterparts that I'd like to pass out
10 before we get started.

11 (Mr. Kiser passes out exhibits.)

12

13 DON HALL
14 having been duly sworn, was examined and testified as
15 follows:

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. KISER:

18 Q. Okay. Mr. Hall, this is an application we
19 originally filed back in November of 2002, is that correct?

20 A. That's correct.

21 Q. Could you kind of...before we get into the
22 standard testimony, could you sort of give the Board some
23 background and history on why we've...why this one has been
24 taking so long to get to (inaudible) here today?

--

1 A. Well, as we...as we do title work on some of
2 these tracts, we've discussed that there were other owners.
3 There was some out conveyances that we didn't have in the
4 beginning. And as we discovered that, we continued to
5 continue the hearing until we got that all squared away, and
6 these new exhibits reflect those changes.

7 Q. So, we're fully confident now that based
8 upon the title work and work by your land department out in
9 the field that we have properly and correctly identified all
10 of the oil and gas interest owners within the 112.69 acre
11 unit?

12 A. That's correct.

13 Q. Okay. And you're employed by Equitable in
14 what capacity?

15 A. District landman.

16 Q. And do your responsibilities include the
17 land involved here and in the surrounding area?

18 A. They do.

19 Q. And are you familiar with the application---
20 ?

21 A. Yes.

22 Q. ---that we filed seeking a force pooling for
23 this well?

24 A. Yes.

--

1 Q. And does Equitable own drilling rights
2 within the unit involved here?

3 A. We do.

4 Q. And prior to filing the original application
5 and since that time, have efforts been made to contact each
6 of the respondents---?

7 A. Yes.

8 Q. ---and work out an agreement regarding a
9 voluntary lease?

10 A. Yes.

11 Q. And what is the interest under lease to
12 Equitable within the unit at this time?

13 A. 93.55...93.56 rounded off percent.

14 Q. And that's consistent with the revised
15 Exhibit B and the counterparts that were just passed out to
16 the Board?

17 A. That's correct.

18 Q. And are you familiar with the ownership of
19 drilling rights of parties other than Equitable underlying
20 this unit?

21 A. Yes.

22 Q. And what percentage remains unleased at this
23 time?

24 A. 6.44%.

--

1 Q. Now, subsequent to the filing of the
2 application, as you testified to earlier, you continued to
3 identify some additional interest owners within the unit and
4 you have continued to attempt to obtain leases from them, is
5 that correct?

6 A. That's correct.

7 Q. And as a result of those efforts, if we go
8 all the way back to the application or the Exhibit B that was
9 filed with the application in November, 2002, did you acquire
10 additional leases from people that were identified in that
11 application?

12 A. Yes.

13 Q. Okay. Could you point those out for the
14 Board?

15 A. Well, I'll have to compare the Exhibits.
16 We've...on Tract 4, we've acquired...we added new people, but
17 didn't acquire any leases. We've added, I think, Tract 11 as
18 a new Tract and we've acquired leases on all of the owners of
19 Tract 11 except Joe Gordon.

20 Q. All right. Tract 11 is a whole new tract?

21 A. Right.

22 Q. It wasn't included in the original
23 application?

24 A. That's correct.

--

1 Q. Okay. Tract 1 would remain the same from
2 the original application. Tract 2 would remain the same.
3 Tract 3 would remain the same.

4 A. Yes.

5 Q. Four, we identified additional parties other
6 than John D. Baker. And all those parties remain unleased,
7 right?

8 A. That's correct.

9 Q. Five remains the same. Six remains the
10 same. Seven remains the same. Eight remains the same. Nine
11 remains the same. Ten, there's some changes in 10?

12 A. We picked some leases up in 10 since
13 the---.

14 Q. Right.

15 A. ---original application.

16 Q. And then added Tract 11 and leased all but
17 one undivided interest within that tract, correct?

18 A. That's correct.

19 Q. Okay. Are all the unleased parties as they
20 currently exist representing that 6.44% set out in revised
21 Exhibit B?

22 A. Yes.

23 Q. We don't have any unknown parties to this
24 particular pooling?

--

1 A. No.

2 Q. In your professional opinion, was due
3 diligence exercised to locate each of the respondents named
4 in revised Exhibit B?

5 A. Yes.

6 Q. And are the addresses set out in revised
7 Exhibit B to the application the last known addresses for the
8 respondents?

9 A. They are.

10 Q. Are you requesting this Board to force pool
11 all the unleased interest listed at revised Exhibit B?

12 A. Yes.

13 Q. Now, are you familiar with the fair market
14 value of drilling rights in the unit here and in the
15 surrounding area?

16 A. Yes.

17 Q. Could you please advise the Board as to what
18 those are?

19 A. A five dollar bonus, five year term and a
20 one-eighth royalty.

21 Q. And you can testify to this because of your
22 familiarity and experience in acquiring oil and gas leases
23 and other agreements involving the transfer of drilling
24 rights in the unit involved here and in the surrounding area?

--

1 A. Yes.

2 Q. And in your professional opinion, do the
3 terms you've just testified to represent the fair market
4 value of and the fair and reasonable compensation to be paid
5 for drilling rights within this unit?

6 A. It does.

7 Q. Now, as to those respondents who remain
8 unleased in revised Exhibit B, do you agree that they be
9 allowed the following statutory options with respect to their
10 ownership interest within the unit: One, participation; two,
11 a cash bonus of five dollars per net mineral acre plus a one-
12 eighth of eight-eighths royalty; or three in lieu of the cash
13 bonus and one-eight of eight-eighths royalty, a share in the
14 operation of the well on a carried basis as a carried
15 operator under the following conditions: Such carried
16 operator should be entitle to his share of production from
17 the tracts pooled accruing to his interest exclusive of any
18 royalty or overriding royalty reserve in any leases,
19 assignments thereof or agreements relating thereto of such
20 tracts that only after the proceeds applicable to his share
21 equal A) 300% of the share of such costs applicable to the
22 interest of a carried operator of a leased tract or portion
23 thereof; or B) 200% of the share of such costs applicable to
24 the interest of a carried operator of an unleased tract or

--

1 portion thereof?

2 A. Yes.

3 Q. Do you recommend that the order provide that
4 the elections by any respondents be in writing and sent to
5 the applicant at Equitable Production Company, 1710
6 Pennsylvania Avenue, Charleston, West Virginia, 25328,
7 Attention: Melanie Freeman, Regulatory?

8 A. Yes.

9 Q. And should this be the address for all
10 communications with the applicant concerning any force
11 pooling order?

12 A. It should.

13 Q. Do you recommend that the order provide that
14 if no election is properly made by a respondent, then such
15 respondent shall be deemed to have elected the cash royalty
16 option in lieu of any participation?

17 A. Yes.

18 Q. Should unleased respondents be given 30 days
19 from the date that the order is executed to file their
20 written elections?

21 A. Yes.

22 Q. If an unleased respondent elects to
23 participate, should they be given 45 days to pay the
24 applicant for the respondent's proportionate share of well

--

1 costs?

2 A. Yes.

3 Q. Does the applicant expect any party electing
4 to participate to pay in advance that party's share of
5 completed well costs?

6 A. Yes.

7 Q. Should the applicant be allowed a 120 days
8 following the recordation date of the Board order and
9 thereafter annually on that date until production is achieved
10 to pay or tender any cash bonus becoming due under any force
11 pooling order?

12 A. Yes.

13 Q. Do you recommend the order provide if a
14 respondent elects to participate but fails to pay their
15 proportionate share of costs satisfactory to the applicant
16 for the payment of those costs, then their election to
17 participate shall be treated as having been...having been
18 withdrawn and void?

19 A. Yes.

20 Q. Do you recommend that the order provide that
21 where a respondent elects to participate but defaults in
22 regard to the payment of well costs, any cash sum becoming
23 payable to that respondent be paid within 60 days after the
24 last date on which such respondent could have paid or made

--

1 arrangements for the payment of those costs?

2 A. Yes.

3 Q. Okay, in this particular case, we don't have
4 any unknown or unlocateable interest owners. So, there is no
5 reason to establish an escrow account, correct?

6 A. That's correct.

7 Q. And who should be named operator under any
8 force pooling order?

9 A. Equitable Production.

10 Q. Now, what is the total depth of the proposed
11 well under the plan of development?

12 A. 5,914 feet.

13 Q. And are you requesting this force pooling of
14 conventional of gas reserves not only to include the
15 designated formations but any other formations excluding coal
16 formations which may be between those formations designated
17 from the surface to the total depth drilled?

18 A. That's correct.

19 Q. And what are the estimated reserves for this
20 unit?

21 A. 500 million cubic feet.

22 Q. Now, are you familiar with the well costs
23 for this well?

24 A. Yes.

--

1 Q. And has an AFE been reviewed, signed and
2 submitted to the Board as...I can't remember, I guess it's
3 still Exhibit C to the application?

4 A. Yes.

5 Q. Was the AFE prepared by an engineering
6 department knowledgeable in the preparation of AFEs and
7 knowledgeable in regard to well costs in this area?

8 A. It was.

9 Q. Does it represent a reasonable estimate of
10 the well costs for this well?

11 A. Yes.

12 Q. Could you state for the Board both the dry
13 hole costs and the completed well costs?

14 A. The dry hole costs is \$168,777, and the
15 completed well costs is \$273,632.

16 Q. Do these costs anticipate a multiple
17 completion?

18 A. They do.

19 Q. Does your AFE include a reasonable charge
20 for supervision?

21 A. Yes.

22 Q. In your professional opinion, would the
23 granting of this application be in the best interest of
24 conservation, the prevention of waste, and the protection of

--

1 correlative rights?

2 A. Yes.

3 JIM KISER: Nothing further of this witness at this
4 time, Mr. Chairman.

5 BENNY WAMPLER: Questions from members of the
6 Board?

7 KEN MITCHELL: Mr. Chairman.

8 BENNY WAMPLER: Mr. Mitchell.

9 KEN MITCHELL: Just a procedural question. Should
10 we have in here a notice from the newspaper that this was
11 advertised like the Bluefield Daily? Also, should we have in
12 here a series of return receipt requested documents from the
13 U.S. Post Office stating these people were notified? Should
14 these items be in this packet or am I missing something.

15 JIM KISER: I've got it right here.

16 BOB WILSON: Those items are filed with the staff
17 of the Board and are placed in the permanent file.

18 KEN MITCHELL: Okay. I'm...I'm...many times I'm
19 used to seeing them in here. Many times they make copies
20 and...so, I...if we have them on file, that's fine.

21 BOB WILSON: Sometimes they're included and
22 sometimes they're not.

23 KEN MITCHELL: If you tell me they are there, I
24 will take your word, sir.

--

1 BENNY WAMPLER: Any other questions?
2 (No audible response.)
3 BENNY WAMPLER: Do you have anything further?
4 JIM KISER: Mr. Chairman, we'd ask the application
5 be approved as submitted.
6 BENNY WAMPLER: Is there a motion?
7 KEN MITCHELL: So, moved Mr. Chairman.
8 JIM MCINTYRE: I second.
9 BENNY WAMPLER: Motion and second. Any further
10 discussion?
11 (No audible response.)
12 BENNY WAMPLER: All in favor, signify by saying
13 yes.
14 (All members signify by saying yes, except Donald
15 Ratliff.)
16 BENNY WAMPLER: Opposed say no. You have approval.
17 DONALD RATLIFF: Mr. Chairman, I would abstain.
18 BENNY WAMPLER: We have one abstention, Mr.
19 Ratliff. The next item is a petition from Equitable
20 Production for pooling of a conventional gas unit V-535431,
21 docket number VGOB-03-03/18-1126. We'd ask the parties that
22 wish to address the Board in this matter to come forward at
23 this time.
24 JIM KISER: All right. It will be Mr. Hall again.

--

1 Jim Kiser for Equitable Production Company and Don Hall. At
2 this time, Mr. Hall is going to pass out the revised
3 exhibits.

4 (Don Hall passes out exhibits.)

5 BENNY WAMPLER: The record will show there are no
6 others. You may proceed.

7

8 DON HALL

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. KISER:

11 Q. Mr. Hall, this was a application that we
12 originally filed in February for the March docket and it was
13 continued in March. Can you explain in conjunction with the
14 revised Exhibit B, before we get started again, why we
15 continued this one?

16 A. We had it scheduled for March. The only
17 unleased party we had at that time was Tract No. 6, Leroy
18 Dunford. We subsequently leased him. We were preparing to
19 just have the---.

20 Q. Application withdrawn?

21 A. ---application withdrawn and then in some
22 title work, it was determined that in Tract No. 3, one of the
23 Coastal tracts, that there was a one-twentieth interest that
24 had not been conveyed to Coastal. That was the Laura Meade

--

1 Wright heirs. So, we had to modify the application to
2 include them, their one-twentieth interest in the properties
3 that came out when we did the title work. Then subsequently,
4 we've leased all of those heirs except Jackie Wright and some
5 unknown heirs of William B. Rambo, some unknown and some
6 unlocateable heirs.

7 Q. Okay. And you're familiar with the revised
8 application that we filed seeking a pooling order for the
9 establishment of the unit and a pooling order for EPC well V-
10 535431, which was dated March the 14th, 2003?

11 A. Yes.

12 Q. Okay. Does Equitable own drilling rights in
13 the unit involved here?

14 A. We do.

15 Q. Now, prior to filing the application, I
16 think you just testified, that you made an attempt to contact
17 each of the respondents listed and work out a voluntary
18 agreement?

19 A. Yes.

20 Q. And what is the interest of Equitable under
21 lease within the unit at this time?

22 A. We have 99.84% leased.

23 Q. And you're familiar with the ownership of
24 drilling rights of parties other than Equitable in the unit?

--

1 Q. Yes.

2 Q. And the percentage that remains unleased at
3 this time?

4 A. .16%.

5 Q. 0.16%?

6 A. Yes. Sixteen hundreds of a percent.

7 Q. Now, you have testified that subsequent to
8 the filing of the application both in February and March,
9 you've continued to attempt to reach an agreement with the
10 respondents listed in the revised Exhibit B?

11 A. Uh-huh.

12 Q. And you picked up a lease not only from Mr.
13 Lee Roy Dunford, who was originally our only unleased party,
14 but also all but two of the Laura Meade Wright heirs that
15 represent a one-twentieth interest in Tract 3?

16 A. That's correct. Jackie Wright plus some...
17 the unknown heirs of William Rambo, we have not been able to
18 locate yet or lease.

19 Q. Okay. Are all the unleased parties
20 correctly set out in revised Exhibit B?

21 A. They are.

22 Q. Okay. And we do have some unknown heirs.
23 Did we make reasonable and diligent efforts to try to locate
24 those heirs?

1 A. Yes.

2 Q. Was professional...in your professional
3 opinion, was due diligence exercised to locate each of the
4 respondents named in the revised Exhibit B?

5 A. Yes.

6 Q. Now, are the addresses set out in revised
7 Exhibit B to the application the last known addresses for the
8 respondents?

9 A. They are.

10 Q. Are you requesting the Board to force pool
11 all unleased interest listed in revised Exhibit B?

12 A. Yes.

13 Q. Again, are you familiar with the fair market
14 value of drilling rights in the unit here and in the
15 surrounding area?

16 A. Yes.

17 Q. Could you advise the Board as to what those
18 are?

19 A. A five dollar bonus, a five year term and
20 one-eighth royalty.

21 Q. In your opinion, do these terms you have
22 just testified to represent the fair market value of and the
23 fair and reasonable compensation to be paid for drilling
24 rights within this unit?

1 A. They do.

2 JIM KISER: Mr. Chairman and members of the Board,
3 at this time, we would like to incorporate the testimony just
4 taken in VGOB docket number 02-11/19-1101 regarding the
5 election options and the time lines afforded the unleased
6 parties.

7 BENNY WAMPLER: That will be incorporated.

8 Q. Mr. Hall, who should be named the operator
9 under any force pooling order?

10 A. Equitable Production.

11 Q. And what is the total depth of this proposed
12 well under the plan of development?

13 A. 6,054 feet.

14 Q. And are you requesting the force pooling of
15 conventional gas reserves not only to include designated
16 formations, but any other formations excluding coal
17 formations which may be between those formations designated
18 from the surface to the total depth drilled?

19 A. Yes.

20 Q. And what are the estimated reserves for this
21 unit?

22 A. 275 million cubic feet.

23 Q. Are you familiar with the well costs for
24 this proposed well under the plan of development?

--

1 A. Yes.

2 Q. Has an AFE been reviewed, signed and
3 submitted to the Board as Exhibit C to the application?

4 A. It has.

5 Q. Was the AFE prepared by engineering
6 department knowledgeable in the preparation of AFEs and
7 knowledgeable in regard to well costs in this area?

8 A. Yes.

9 Q. In your opinion, does it represent a
10 reasonable estimate of the well costs for this well?

11 A. It does.

12 Q. Could you state for the Board at this time
13 both the dry hole costs and the completed well costs?

14 A. The dry hole costs is \$189,329, and the
15 completed well costs \$314,646.

16 Q. Do these costs anticipate a multiple
17 completion?

18 A. They do.

19 Q. Does your AFE include a reasonable charge
20 for supervision?

21 A. Yes.

22 Q. In your professional opinion, would the
23 granting of this application be in the best interest of
24 conservation, the prevention of waste, and the protection of

--

1 correlative rights?

2 A. Yes.

3 JIM KISER: Nothing further of this witness at this
4 time, Mr. Chairman.

5 BENNY WAMPLER: Questions from members of the
6 Board?

7 (No audible response.)

8 BENNY WAMPLER: In your original application, you
9 had an Exhibit E that showed Tract 3, William B. Rambo heirs.

10 DON HALL: The revised Exhibit also has that.

11 BENNY WAMPLER: It only has that one tract.

12 DON HALL: That's the only one that needs to be
13 escrowed.

14 JIM KISER: That's the only one that has an E.

15 BENNY WAMPLER: I'm just verifying because he was
16 in 6 also. That's why I was asking.

17 DON HALL: Pardon?

18 BENNY WAMPLER: I believe you're showing the Rambo
19 heirs in Tract 6, if I didn't look at it wrong.

20 JIM KISER: I think there's only three tracts in
21 this unit.

22 (Jim Kiser reviews documents.)

23 DON HALL: Leroy Dunford was---.

24 JIM KISER: Yeah, Dunford is Tract 6. In the

--

1 original application, we showed them in 6.

2 BENNY WAMPLER: Okay.

3 JIM KISER: Okay.

4 DON HALL: No, they were...actually, it was not
5 numbered.

6 JIM KISER: Okay.

7 BENNY WAMPLER: I'm okay with it. I saw the
8 change...where it changed. It wasn't numbered. Any other
9 questions from members of the Board?

10 (No audible response.)

11 BENNY WAMPLER: Do you have anything further?

12 JIM KISER: Mr. Chairman, we'd ask that the
13 application be approved as submitted with the revised
14 exhibits.

15 BENNY WAMPLER: Is there a motion?

16 KEN MITCHELL: So moved.

17 JIM McINTYRE: I make a motion that we approve it
18 as submitted.

19 KEN MITCHELL: I'll second his motion.

20 BENNY WAMPLER: Motion and second. Any further
21 discussion?

22 (No audible response.)

23 BENNY WAMPLER: All in favor, signify by saying
24 yes.

1 (All members signify by saying yes, except Mr.
2 Ratliff.)

3 BENNY WAMPLER: Opposed, say no.
4 (No audible response.)

5 BENNY WAMPLER: You have approval. Thank you.

6 DONALD RATLIFF: Mr. Chairman, I would abstain due
7 to my involvement with Coastal.

8 BENNY WAMPLER: Mr. Ratliff abstains.

9 JIM KISER: Mr. Chairman, at this time, I would
10 like to make a request, Mr. Swartz has kindly said it was
11 okay with him since they have a large number of petitions
12 from his client before we get to our last two, which are
13 thirteen and fourteen, we'd like to ask the Board's
14 permission to jump ahead to those two at this time.

15 BENNY WAMPLER: We shall do that. The next item on
16 the agenda then will be the Board's agenda item thirteen, a
17 petition from Equitable Production Company for pooling of a
18 coalbed methane unit VC-505247, docket number VGOB-03-04/15-
19 1145. We'd ask the parties that wish to address the Board in
20 this matter to come forward at this time.

21 JIM KISER: Mr. Chairman and members of the Board,
22 Jim Kiser on behalf of Equitable Production Company. Our
23 witness again will be Mr. Hall. He has been sworn.

24 BENNY WAMPLER: The record will show there are no

--

1 others. You may proceed.

2

3

DON HALL

4

DIRECT EXAMINATION

5 QUESTIONS BY MR. KISER:

6 Q. Mr. Hall, you're employed by Equitable in
7 what capacity?

8 A. District Landman.

9 Q. And your responsibilities include the land
10 involved here and in the surrounding area?

11 A. They do.

12 Q. And you're familiar with Equitable's
13 application seeking a pooling order for EPC well number VC-
14 505247, which was dated March the 14th, 2003?

15 A. Yes.

16 Q. Is Equitable seeking to force pool the
17 drilling underlying the unit as depicted at Exhibit A to the
18 application?

19 A. We are.

20 Q. Does Equitable own drilling rights in the
21 unit involved here?

22 A. Yes.

23 Q. Now, prior to filing the application, was an
24 attempt made to work out a voluntary agreement for each

--

1 respondent listed in Exhibit B?

2 A. Yes.

3 Q. And what is the interest of Equitable within
4 gas estate in this unit?

5 A. We have 98.52% leased.

6 Q. And the leased interest of Equitable in the
7 coal estate?

8 A. 100%.

9 Q. And are all the unleased parties set out in
10 Exhibit B?

11 A. They are.

12 Q. And are you familiar with the ownership of
13 drilling rights of parties other than Equitable underlying
14 this unit?

15 A. Yes.

16 Q. And that would just be...the only interest
17 out of the gas and coal estate underlying this unit that
18 remains unleased at this time is 1.48%?

19 A. That's correct. To clarify the---.

20 Q. Yeah, why don't you kind of talk about the
21 way this exhibit is set up.

22 A. To clarify Exhibit B, Tract No. 5 is the
23 tract we're...subject tract here that we're force pooling.
24 The record title owners of that tract are the ones that we

--

1 have listed. One, two, three, four, five, six....eleven
2 people that we have listed. And as you notice on the
3 exhibit, it says, "Or if Deeds are recorded, two other guys,
4 David and Bruce Stidham." These two guys propose that they
5 have deeds for this property which they have not recorded
6 yet. So, we listed the record title owners and then the
7 actual notice owners here. So, they're eventually going to
8 record their deeds, I think. But to cover everyone in this
9 situation, we listed them both. David Stidham is actually
10 one of the first eleven. Bruce Stidham is a son of Omar
11 Stidham.

12 Q. In this particular case, we have identified
13 all the interest owners. We don't have any unknown owners,
14 is that correct?

15 A. That's correct.

16 Q. In your professional opinion, was due
17 diligence exercised to locate each of the respondents named
18 in Exhibit B?

19 A. Yes.

20 Q. Now, are the addresses set out in Exhibit B
21 the last known addresses for the respondents?

22 A. They are.

23 Q. Are you requesting the Board to force pool
24 all unleased interest being 1.48% of the gas estate listed in

--

1 Exhibit B?

2 A. Yes.

3 Q. Again, are you familiar with the fair market
4 value of drilling rights in the unit here and in the
5 surrounding area?

6 A. Yes.

7 Q. Could you again advise the Board as to what
8 those are?

9 A. A five dollar bonus, a five year term and
10 one-eighth royalty.

11 Q. In your professional opinion, do these terms
12 you have just testified to represent the fair market value of
13 and the fair and reasonable compensation to be paid for
14 drilling rights within this unit?

15 A. They do.

16 JIM KISER: Mr. Chairman, we'd again ask the
17 testimony previously taken in 02-11/19-1101 regarding the
18 election options afforded unleased parties be incorporated
19 into this hearing.

20 BENNY WAMPLER: That will be incorporated.

21 Q. Mr. Hall, could you...who should be named
22 the operator under any force pooling order?

23 A. Equitable Production.

24 Q. And what is the total depth of this well

--

1 under the plan of development?

2 A. 2567 feet.

3 Q. And the estimated reserves for the unit?

4 A. 400 million cubic feet.

5 Q. Are you familiar with the well costs for the

6 proposed unit well under the plan of development?

7 A. Yes.

8 Q. Has an AFE been reviewed, signed and

9 submitted to the Board as Exhibit C?

10 A. It has.

11 Q. Was the AFE prepared by engineering

12 department knowledgeable in the preparation of AFEs and

13 knowledgeable in regard to well costs in this area?

14 A. Yes.

15 Q. Let me go back to, in this particular case,

16 we do have conflicting claimants to the coalbed methane.

17 A. That's correct.

18 Q. So, the Board does need to establish an

19 escrow account?

20 A. That's correct.

21 Q. I'm sorry. Could you...does the AFE that's

22 attached as Exhibit C represent a reasonable estimate of the

23 well costs for the proposed well under the plan of

24 development?

--

1 A. It does.

2 Q. Could you state for the Board both the dry
3 hole costs and the completed well costs?

4 A. The dry hole costs is \$99,921, and the
5 completed well cost is \$222,039.

6 Q. Do these costs anticipate a multiple
7 completion?

8 A. They do.

9 Q. Does your AFE include a reasonable charge
10 for supervision?

11 A. Yes.

12 Q. In your professional opinion, would the
13 granting of this application be in the best interest of
14 conservation, the prevention of waste, and the protection of
15 correlative rights?

16 A. Yes.

17 JIM KISER: Nothing further of this witness at this
18 time, Mr. Chairman.

19 BENNY WAMPLER: Questions from members of the
20 Board?

21 (No audible response.)

22 BENNY WAMPLER: Is the coalbed methane well inside
23 the drilling window?

24 JIM KISER: That's right.

--

1 DON HALL: Yes.

2 BENNY WAMPLER: Is there a motion.

3 KEN MITCHELL: So moved, Mr. Chairman.

4 DENNIS GARBIS: Second.

5 BENNY WAMPLER: Motion and second. Any further
6 discussion?

7 (No audible response.)

8 BENNY WAMPLER: All in favor, signify by saying
9 yes.

10 (All members signify by saying yes, except Donald
11 Ratliff.)

12 BENNY WAMPLER: Opposed, say no. You have---.

13 DONALD RATLIFF: Mr. Chairman, I would abstain due
14 the involvement with Coastal.

15 BENNY WAMPLER: You have approval upon abstention
16 from Mr. Ratliff. The next item on the agenda is a petition
17 from Equitable Production Company for pooling of a
18 conventional gas unit V-505090, docket number VGOB-03-04/15-
19 1146. We'd ask the parties that wish to address the Board in
20 this matter to come forward at this time.

21 JIM KISER: Jim Kiser, again, on behalf of
22 Equitable production Company. Our witness, again, will be
23 Mr. Hall. I've got a revised Exhibit just for B, not the
24 whole package. We made a clerical error in the original

--

1 Exhibit B to the application. We switched cumulative totals
2 in the interest within the unit and gross acreage in the
3 unit.

4 (Jim Kiser passes out exhibits.)

5 BOB WILSON: Mr. Chairman, the staff received a
6 letter from an interest holder in this unit as well asking
7 that the application be denied for various reasons. I have a
8 copy of that letter and the reply that was sent which
9 addressed most of the problems that this individual had
10 brought up.

11 JIM KISER: Mr. Chairman, we never...my client nor
12 myself received a copy of that.

13 BENNY WAMPLER: For the record, Mr. Wilson is
14 distributing a copy of the letter and the response to the
15 Board members and will provide such to the applicant.

16 (Bob Wilson passes out the letters.)

17 BOB WILSON: As I said, this also includes a reply
18 that I made to the individual and I received a subsequent
19 letter in regard to some permitting issues which this person
20 merely requests that this letter be made a part of the
21 permanent file.

22 (Everyone reviews the letter. Off record per Benny
23 Wampler's request.)

24 BENNY WAMPLER: The record will show there are no

--

1 others. You may proceed.

2 JIM KISER: Mr. Chairman, before we get started, I
3 note Mr. Wilson has done a thorough job of addressing her
4 concerns. If we might address them, the ones we can address.

5 One, we offered her the same lease we offered
6 everybody. It has the same language and the same terms that
7 all of our leases have. So, there wasn't any...certainly
8 wasn't any different lease drafted for her tracts. And I
9 think Mr. Wilson has addressed two, three...or her items two,
10 three and three, which I guess should be two, three and four
11 adequately. Then four and five was the clerical errors that
12 I alluded to earlier that we have addressed in our revised
13 Exhibit B that has been passed out to you.

14

15

16 DON HALL

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. KISER:

19 Q. With that being said, Mr. Hall, if you'd
20 again state your name for the Board, who you're employed by
21 and in what capacity?

22 A. Don Hall. I'm employed by Equitable
23 Production Company as District Landman.

24 Q. And you're familiar with the application

--

1 that we filed seeking the establishment of a drilling and the
2 pooling order for EPC well number V-505090, which was dated
3 March the 14th, 2003?

4 A. Yes.

5 Q. Does Equitable own drilling rights in the
6 unit involved here?

7 A. We do.

8 Q. Now, prior to filing the application, were
9 efforts made to contact to each of the respondents and an
10 attempt made to work out an agreement a voluntary lease with
11 each other?

12 A. Yes.

13 Q. And what is the interest of Equitable under
14 lease within this unit?

15 A. We got...currently have 65.87% of the unit
16 under lease.

17 Q. And that's correctly reflected now on the
18 revised Exhibit B?

19 A. That's correct.

20 Q. And you're familiar with the ownership of
21 drilling rights of parties other than Equitable underlying
22 this unit?

23 A. Yes.

24 Q. And what percentage remains unleased at this

--

1 time?

2 A. 34...34.13%.

3 Q. And subsequent to filing the application,

4 you've continued to attempt to reach an agreement with the

5 unleased respondents listed in Exhibit B?

6 A. Yes.

7 Q. As a result of those efforts, you've not

8 been successful in acquiring any new leases, right?

9 A. No.

10 Q. So, those percentages will be good at this

11 point?

12 A. That's correct.

13 Q. And are all the unleased parties are set out

14 in Exhibit B to the application?

15 A. Yes.

16 Q. In this particular case, again, we have a

17 conventional well and we don't have any unknown or

18 unlocateable parties?

19 A. That's correct.

20 Q. In your professional opinion, was due

21 diligence exercised to locate each of the respondents named

22 in Exhibit B?

23 A. Yes.

24 Q. And are the addresses set out in the new

1 Exhibit B to the application the last known addresses for the
2 respondents?

3 A. Yes.

4 Q. Are you requesting this Board to force pool
5 all unleased interest leased in the new Exhibit B?

6 A. We are.

7 Q. Are you, again, familiar with the fair
8 market value of drilling rights in the unit here and in the
9 surrounding area?

10 A. Yes.

11 Q. Could you again advise the Board as to what
12 those are?

13 A. A five dollar bonus, a five year term and
14 one-eighth royalty.

15 Q. In your professional opinion, do these terms
16 you have just testified to represent the fair market value of
17 and the fair and reasonable compensation to be paid for
18 drilling rights within this unit?

19 A. Yes.

20 JIM KISER: Mr. Chairman and members of the Board,
21 we'd ask again that the testimony regarding the election
22 options afforded the unleased parties that was taken in VGOB
23 docket number 02-11/19-1101 earlier this morning be
24 incorporated for purposes of this hearing.

--

1 BENNY WAMPLER: That will be incorporated.

2 Q. Mr. Hall, now, in this particular case, Mr.
3 Hall, since it's a conventional well, we don't have any
4 unknown/unlocateable parties. There is no reason for the
5 Board to establish an escrow account, correct?

6 A. That's correct.

7 Q. And who should be named operator under any
8 force pooling order?

9 A. Equitable Production Company.

10 Q. Now, what is the total depth of the well
11 under the applicant's plan of development?

12 A. 5,477 feet.

13 Q. And is the applicant requesting the force
14 pooling of conventional gas reserves not only to include the
15 designated formations but any other formations, excluding
16 coal formations, which may be between those formations
17 designated from the surface to the total depth drilled?

18 A. Yes.

19 Q. What are the estimated reserves for this
20 unit?

21 A. 400 million cubic feet.

22 Q. Are you familiar with the well costs for
23 this unit?

24 A. Yes.

--

1 Q. Has an AFE been reviewed, signed and
2 submitted to the Board as Exhibit C to the application?
3 A. It has.
4 Q. Was the AFE prepared by engineering
5 department knowledgeable in the preparation of AFEs and
6 knowledgeable in regard to well costs in this area?
7 A. Yes.
8 Q. In your opinion, does this AFE represent a
9 reasonable estimate of the well costs for this well?
10 A. It does.
11 Q. Could you state both the dry hole costs and
12 the completed well costs for this well?
13 A. The dry hole cost is \$169,604. The
14 completed well cost is \$293,585.
15 Q. Do these costs anticipate a multiple
16 completion?
17 A. They do.
18 Q. Does your AFE include a reasonable charge
19 for supervision?
20 A. Yes.
21 Q. In your professional opinion, would the
22 granting of this application be in the best interest of
23 conservation, the prevention of waste, and the protection of
24 correlative rights?

--

1 A. Yes.

2 JIM KISER: Nothing further of this witness at this
3 time, Mr. Chairman.

4 BENNY WAMPLER: Questions from members of the
5 Board?

6 (No audible response.)

7 BENNY WAMPLER: Do you have anything further?

8 JIM KISER: Mr. Chairman, we'd ask that the
9 application be approved as submitted with the new Exhibit B
10 that was passed out this morning to correct the clerical
11 errors.

12 DONALD RATLIFF: So moved.

13 BENNY WAMPLER: Motion.

14 KEN MITCHELL: Second.

15 BENNY WAMPLER: Second. Any further discussion?

16 (No audible response.)

17 BENNY WAMPLER: All in favor, signify by saying
18 yes.

19 (All members signify by saying yes.)

20 BENNY WAMPLER: Opposed, say no.

21 (No audible response.)

22 BENNY WAMPLER: You have approval. Thank you.

23 DON HALL: Thank you.

24 BENNY WAMPLER: We'll take a ten minute break while

--

1 the other folks get set up.

2 (Break.)

3 MARK SWARTZ: You could do one and...I'm sorry,
4 four, five and seven at the same time. That would probably
5 save us...I'm sorry, four, five and eight. Those are three
6 Middle Ridge units. Four, five and eight where Pocahontas
7 Gas Partnership is the applicant on all three.

8 BENNY WAMPLER: Okay. Are you ready?

9 MARK SWARTZ: Yes.

10 BENNY WAMPLER: The next items on the agenda, I'm
11 going to combine four, five and eight on the Board's agenda
12 items, it's a petition from Pocahontas Gas Partnership for
13 pooling of a coalbed methane unit AV-118, docket number VGOB-
14 03-04/15-1136; and unit AV-119, docket number VGOB-03-04/15-
15 1137; and unit BA-113, docket number VGOB-03-04/15-1140.
16 We'd ask the parties that wish to address the Board in these
17 matters to come forward at this time.

18 (Anita Tester passes out exhibits.)

19 MARK SWARTZ: Mark Swartz and Les Arrington.

20 (Leslie K. Arrington is duly sworn.)

21 MARK SWARTZ: Les, could you state your name for
22 us?

23 BENNY WAMPLER: There are no others. You may
24 proceed.

--

1

2

LESLIE K. ARRINGTON

3 having been duly sworn, was examined and testified as
4 follows:

5

DIRECT EXAMINATION

6 QUESTIONS BY MR. SWARTZ:

7 Q. Les, could you state your name for us,
8 please?

9 A. Leslie K. Arrington.

10 Q. Who do you work for?

11 A. CNX Gas Company.

12 Q. And are these three units that we're going
13 to be talking about at this time Middle Ridge units?

14 A. Yes, they are.

15 Q. And did you prepare or cause to be prepared
16 under your supervision the notices, the applications and the
17 related exhibits?

18 A. Yes, I did.

19 Q. And, in fact, have you...are you the person
20 who signed the notices of hearing and the applications?

21 A. Yes, I did.

22 Q. What did you do before this hearing to
23 notify the respondents that there would be a hearing today?

24 A. We published in the Bluefield Daily

--

1 Telegraph and we mailed by certified mail return receipt
2 requested on March the 13th of 2003.

3 Q. With regard to publication, could you give
4 the Board the dates?

5 A. Yes, for AV-118, it was published in the
6 Bluefield Daily Telegraph on March the 29th; AV-119, it was
7 published in the Bluefield Daily Telegraph on March the 28th;
8 and BA-113 was published in the Bluefield Daily Telegraph on
9 March the 24th.

10 Q. Okay. Have you filed this morning with
11 regard to each of these three units the return receipts with
12 regard to mailing or the various data with regard to mailing
13 and copies of the certificates of publication that you got
14 from the newspaper?

15 A. Yes, we have.

16 Q. When you mailed to the respondents, what did
17 you send them?

18 A. We mailed the notice of hearing and location
19 exhibit.

20 Q. When you published, what did you publish?

21 A. We published the notice of hearing and
22 location exhibit, I'm sorry.

23 Q. And when you mailed, did you also include
24 the application and the exhibits in the mailing?

--

1 A. Yes, we did.

2 Q. Okay. So, they got more information by mail
3 than was published?

4 A. That's correct.

5 Q. With regard AV-118, the first pooling
6 application that the Chairman called, are there some revised
7 exhibits?

8 A. Yes, it is.

9 Q. And basically, are the revisions with one
10 exception related to the fact that had named some folks as
11 respondents which it ultimately turned out did not need to be
12 respondents?

13 A. That's correct.

14 Q. And I'd ask you to refer to Exhibit B-2 and
15 explain to the Board---.

16 A. Yes.

17 Q. ---the reason for those dismissals.

18 A. Yes. The reason for the dismissals on the
19 first instance, the Louise Vance, she had a life estate and
20 she---.

21 Q. Would not be an owner?

22 A. She's not an owner. Not only that, she gave
23 us a document saying don't send me anything else, send it to
24 my kids.

--

1 Q. Okay. Who are the remainderment party?
2 A. That's right. And they are leased.
3 Q. Okay. And then with regard to the other
4 two...the next two indications, apparently the Red Ash and
5 Jawbone seams are above drainage and are not going to be
6 produced, is that correct?
7 A. Well, in these instances, the Red Ash is
8 above drainage.
9 Q. Okay.
10 A. The Jawbone is either at drainage or just
11 below drainage and we do not anticipate...in the Middle
12 Ridge, as you notice, we produced the Jawbone seam. But
13 it's---.
14 Q. Correct.
15 A. We could. But in this in...these instances
16 we will not. It will be cased off and actually we won't even
17 be close to the Jawbone seam.
18 Q. Okay. And then the last...we've got
19 reference again to Louise Vance---?
20 A. Yes.
21 Q. ---and the reason, in that tract is also
22 that she has got a life estate and the royalty would be
23 payable to the remainderment?
24 A. That's correct.

--

1 Q. And then could the Board assume that the
2 revisions to B-3 and E, and to some extent Exhibit A, page
3 two, pertain to those deletion or dismissals?

4 A. Yes, it does. Yes, sir.

5 Q. Okay. Who is the applicant with regard to
6 each of these units?

7 A. Pocahontas Gas Partnership.

8 Q. Okay. And Pocahontas Gas Partnership is a
9 very general partnership, is that correct?

10 A. Yes.

11 Q. And it has two partners, Consol Energy, Inc.
12 and Consolidation Coal Company?

13 A. Yes.

14 Q. And who is that the applicant is requesting
15 with regard to all three of these units be designated as the
16 Board's operator?

17 A. Pocahontas Gas.

18 Q. Okay. And is Pocahontas Gas registered with
19 the Department of Mines, Minerals and Energy?

20 A. Yes, it is.

21 Q. Has it filed a blanket bond?

22 A. Yes, it has.

23 Q. Is it authorized to do business in the
24 Commonwealth?

1 A. Yes.

2 Q. Do you wish...you've already...we've already
3 talked about dismissing some respondents. Are you asking the
4 Board to add any respondents today?

5 A. No.

6 Q. All three of these units are in the Middle
7 Ridge, correct?

8 A. Correct.

9 Q. And they have slightly different sizes.

10 A. That's correct.

11 Q. So, let's...let's take them one at a time.
12 Let's look at AV-118.

13 A. 49.89 acres.

14 Q. Okay. And there's one well proposed for
15 that unit, which would be a frac well and it's located in the
16 drilling window, is that correct?

17 A. That's correct.

18 Q. With regard to unit AV-119, what's the size
19 of the unit?

20 A. 49.73 acres.

21 Q. And, again, we've got one frac well proposed
22 to be located in the...in the drilling window?

23 A. That's correct.

24 Q. And then the acreage for the last unit BA-

--

1 113?

2 A. 58.74.

3 Q. And, again, one well...frac well in the
4 drilling window?

5 A. Yes.

6 Q. Okay. Let's kind of walk through the
7 revised exhibits here on AV-118 in terms of standing. If you
8 would turn to revised Exhibit A, page two in the handout
9 today---.

10 A. Uh-huh.

11 Q. ---with regard to that unit. Could you
12 explain to the Board what interest you've acquired and what
13 interest you're seeking to pool?

14 A. Yes. We have 96.6326% of the coal oil and
15 gas, coalbed methane leased. We're seeking to pool 3.3674%
16 of the coal, oil and gas.

17 Q. If you just flip backwards in the handout
18 today, there's an Exhibit E, correct?

19 A. Yes, it is.

20 Q. And does that show the escrow requirement
21 for unit AV-118?

22 A. Yes, it does.

23 Q. Okay. And that would be an escrow
24 requirement pertaining only to Tract No. 2, correct?

--

1 A. Only to Tract 2, yes.

2 Q. And that...and that the reason for escrow
3 would be conflicting claims?

4 A. For Tract 2, that's correct.

5 Q. And we have no split agreements with regard
6 to this unit?

7 A. That's correct.

8 Q. And then we also have apparently an escrow
9 requirement with regard to Tract 6 in this unit?

10 A. That's correct. No addresses.

11 Q. And you've got an address unknown problem?

12 A. That's correct.

13 Q. So, that would be the reason for that?

14 A. That's correct.

15 Q. What is the estimated costs for the well in
16 AV-118?

17 A. \$245, 233.01. It's permit number 5527,
18 drilled to an estimated depth of 2557.

19 Q. Okay, the exhibit, I think, shows 2600 feet.

20 A. Yes, it does.

21 Q. Do you have a better number now?

22 A. No. That is correct. I'm sorry.

23 Q. Okay. So, the estimated depth is 2600 feet?

24 A. Uh-huh. It is.

--

1 Q. And the permit number is 5527?

2 A. Yes, it is.

3 Q. Okay. And I think you said \$245,233.01 and
4 it's actually 04.

5 A. Let me look. Yes, it is. I'm sorry.

6 Q. Okay. All right. Let's turn to the next
7 Middle Ridge unit, which is AV-119. There are no revised
8 exhibits with regard to this unit, is that correct?

9 A. That's correct.

10 Q. And you don't want to add or subtract
11 anybody as respondents, correct?

12 A. No, we do not.

13 Q. We're just going with Earnest Junior Hensley
14 as a respondent...he's the only respondent?

15 A. Yes.

16 Q. Okay. If you would turn through this packet
17 of exhibits and locate Exhibit A, page two, Les, and tell the
18 Board what interest you've been able to acquire and what
19 interest you're seeking to pool here.

20 A. Yes. We have 95.6163% of the coal, oil and
21 gas CBM leased. We're seeking to pool 4.3837% of the coal,
22 oil and gas, coalbed methane.

23 Q. If you continue on here, you'll find the
24 estimated cost exhibit.

1 A. Yes, I do.

2 Q. And what's the estimated cost of this well?

3 A. 24...\$243,928.01.

4 Q. Okay.

5 A. The estimated depth of 2,557 feet.

6 Q. Okay. And you've submitted a permit

7 application here, but as of yet, you don't have it?

8 A. That's correct.

9 Q. All right. It appears to me that escrow is

10 not required in this unit.

11 A. That's correct. That's correct.

12 Q. And, again, just to talk about the seams

13 that are in or out of this frac well zones of production. If

14 you would look for a moment at the tract identification. If

15 you'll notice that again, we've got some folks that own the

16 coal less a particular seam. In this instance, it's the Red

17 Ash.

18 A. That's correct.

19 Q. Is the reason that we are not attending to

20 the folks who own the Red Ash is because that Red Ash seam

21 will not be produced by this well?

22 A. Not only that, but the Middle...in the

23 Middle Ridge Field, the Red Ash is not included in the field.

24 Q. Right. Right.

--

1 A. That's correct.

2 Q. Let's turn to the last Middle Ridge unit
3 that we're attending to here today, which is BA-113, okay.

4 A. Yes.

5 Q. Again, if you would find Exhibit A, page
6 two, and tell the Board what...you know, what it is you've
7 done to obtain standing and interest in this unit and what it
8 is you're seeking to pool.

9 A. Yes. We have 66.5592% of the coal leased
10 below this unit. We have 96.1813% of the coal, oil and gas,
11 coalbed methane leased. We're seeking to pool 3.8187% of the
12 coal, oil and gas.

13 Q. With regard to this particular unit, BA-113,
14 I take it you do not want to add or subtract any people as
15 respondents today?

16 A. No, we do not.

17 Q. And you have not filed any revised exhibits,
18 is that correct?

19 A. Correct.

20 Q. We've got one address unknown in B-3. Do
21 you see that?

22 A. Yes.

23 Q. So, we're going to need escrow for
24 unlocateables, correct?

--

1 A. Yes.

2 Q. Actually, you've got several unknown
3 addresses.

4 A. Uh-huh.

5 Q. With regard to your well cost estimate in
6 BA-113, what's the estimate?

7 A. It's...the well cost estimate is
8 \$244,217.75. It's permit number 5184.

9 (Leslie K. Arrington reviews documents.)

10 A. Estimated depth of 2,620 feet.

11 Q. Then lastly, there's an Exhibit E which
12 indicates an escrow required because of conflicts, is that
13 correct?

14 A. Yes, I believe in Tract 4.

15 Q. Right. What are the lease terms in general
16 that you have offered to folks that you have been able to
17 lease from concerning these three units?

18 A. The standard coalbed methane lease of a
19 dollar per acre per year with a five year paid up term with a
20 one-eighth production royalty.

21 Q. And are you recommending those terms to the
22 Board to be included in any order it might issue with regard
23 to folks who are deemed to have been leased?

24 A. Yes, we are.

--

1 Q. Is it your opinion that the plan to develop
2 coalbed methane under or within these three units as
3 disclosed by the applications and attached exhibits is a
4 reasonable plan to do that?

5 A. Yes, it is.

6 Q. And is it your opinion that between the
7 leases you have obtained and a pooling order entered by the
8 Board with regard to these three units, the correlative
9 rights of all owners and claimants in each of these units
10 would be protected?

11 A. Yes, they are.

12 MARK SWARTZ: That's all I have, Mr. Chairman.

13 BENNY WAMPLER: Questions from members of the
14 Board?

15 KEN MITCHELL: One technical question, Mr.
16 Chairman. Let me...let me reference docket item four and
17 docket item five. The very last sheet of paper in that
18 docket is a sworn notary by Rhonda L. Cartwright. Docket
19 number four says her notary expires 10/31/05. Docket number
20 five says her notary expires 10/31/03. So, they were
21 notarized the same date. So, I realize notaries get new
22 extensions on their notary. But this was the same date, the
23 same lady, but two different notary dates. So---.

24 LESLIE K. ARRINGTON: Okay. I'll just have to

--

1 check on it.

2 KEN MITCHELL: Okay. One is right and one is
3 wrong.

4 LESLIE K. ARRINGTON: Okay.

5 KEN MITCHELL: But in docket number eight, she went
6 back with the '05 designation.

7 LESLIE K. ARRINGTON: Okay.

8 KEN MITCHELL: But I...one of them has to be right.

9 LESLIE K. ARRINGTON: Okay. We'll check on that.

10 BENNY WAMPLER: Anything further? Any other
11 questions?

12 MASON BRENT: I have a couple questions, if I may.

13 BENNY WAMPLER: Mr. Brent.

14 MASON BRENT: Mr. Arrington, given...given your
15 all's experience in this area, are you still unable to narrow
16 the range on your estimated production? I notice here 125
17 million cubic feet to 550 million cubic feet.

18 LESLIE K. ARRINGTON: Yes. If you recall, a couple
19 months back when we had Rick Toothman, he did show you
20 different wells with larger productions and some was smaller
21 productions. And at times, you know, you do hit the well
22 that's a 40 mcf a day and then you can go next door and you
23 may get one that's 250 and go even to the next one and you
24 may get 300 a day. So, to put a range on a specific well

--

1 before you drill them, no, sir, I'd be real leery of putting
2 those numbers on there just from all of our past experience.

3 MASON BRENT: And, secondly, who do you work for?

4 LESLIE K. ARRINGTON: CNX Gas Company.

5 MASON BRENT: And you're authorized to testify on
6 behalf of Pocahontas Gas?

7 LESLIE K. ARRINGTON: Yes, sir.

8 MASON BRENT: That's all I have.

9 BENNY WAMPLER: Other questions from members of the
10 Board?

11 (No audible response.)

12 BENNY WAMPLER: Is there a motion?

13 KEN MITCHELL: I so move, Mr. Chairman.

14 JIM MCINTYRE: Second.

15 BENNY WAMPLER: Motion to approve and second. Any
16 further discussion?

17 (No audible response.)

18 BENNY WAMPLER: All in favor, signify by saying
19 yes.

20 (All members signify by saying yes.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval. The next item
24 on the agenda is a petition from Buchanan Production Company

--

1 for pooling of a coalbed methane unit AW-93, docket number
2 VGOB-03-04/15-1138. We'd ask the parties that wish to
3 address the Board in this matter to come forward at this
4 time.

5 MARK SWARTZ: Mark Swartz and Les Arrington. And
6 if you could combine this perhaps, Mr. Chairman, with the
7 next one, which is also a Nora unit where Buchanan Production
8 is the applicant, that might help.

9 BENNY WAMPLER: Okay, we'll go ahead and call a
10 petition from Buchanan Production Company for pooling of a
11 coalbed methane unit AZ-100, docket number VGOB-03-04/15-
12 1139. We'd ask the parties that wish to address the Board in
13 these two matters to come forward at this time.

14 MARK SWARTZ: Mark Swartz and Les Arrington again.
15 (Anita Tester passes out exhibits.)

16 BENNY WAMPLER: The record will show there are no
17 others. You may proceed.

18

19 LESLIE K. ARRINGTON

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. Les, I'll just remind you that you're still
23 under oath, okay.

24 A. Yes, sir.

--

1 Q. You need to state your name.
2 A. Leslie K. Arrington.
3 Q. Who do you work for?
4 A. CNX Gas Company.
5 Q. Who's the applicant with regard to these two
6 units?
7 A. Buchanan Production Company.
8 Q. Is Buchanan Production Company a Virginia
9 General Partnership?
10 A. Yes, they are.
11 Q. Are the partners in Buchanan Production
12 Company Consol Energy, Inc. and CNX Gas Company, L.L.C.?
13 A. Yes, they are.
14 Q. Is CNX Gas Company, L.L.C. a wholly owned
15 indirect subsidiary of Consol Energy, Inc.?
16 A. Yes, it is.
17 Q. Who is Buchanan Production Company
18 requesting be designated the Board's operator?
19 A. Consol Energy.
20 Q. And is Consol Energy, Inc. a Delaware
21 Corporation?
22 A. Yes, it is.
23 Q. Has it registered with the DMME?
24 A. Yes, it has.

--

1 Q. Is it authorized to do business in the
2 Commonwealth?

3 A. Yes.

4 Q. And lastly, does it have a blanket bond on
5 file?

6 A. Yes, it does.

7 Q. In the early 1990s, did Buchanan Production
8 Company delegate the management authority with regard to its
9 Virginia Coalbed Methane assets?

10 A. Yes, it did.

11 Q. And has Consol Energy, Inc. succeeded...and
12 CNX Gas Company, L.L.C. succeeded to that delegation?

13 A. Yes, it has.

14 Q. And is CNX Gas Company...or are Consol and
15 CNX Gas authorized to do pursue this application on behalf
16 of...or these applications on behalf of Buchanan Production
17 Company?

18 A. Yes.

19 Q. The respondents here, have you listed them
20 in both the notice and Exhibit B-3?

21 A. Yes, they are.

22 Q. Okay. Do you want to add or subtract any
23 respondents today?

24 A. No.

1 Q. And we have no revised or amended exhibits,
2 is that correct?

3 A. That's correct.

4 Q. What did you do before the hearing to notify
5 the respondents?

6 A. We mailed by certified mail return receipt
7 requested on March the 13th and for AW-93, we published in
8 the Bluefield Daily Telegraph on March the 28th; and we
9 published AZ-100 in the Bluefield Daily Telegraph on March
10 the 24th.

11 Q. And have you filed your proofs with regard
12 to mailing and the certificate of publication that you
13 received from the newspapers with the Board today?

14 A. Yes, we have.

15 Q. Both of these units are Nora units, is that
16 correct?

17 A. That's correct.

18 Q. And both of them contemplate one well...one
19 frac well?

20 A. That's correct.

21 Q. And in both instances, is the frac well
22 located inside the drilling window?

23 A. Yes, it is.

24 Q. Let's start AW-93, and take a look at

--

1 Exhibit A, page two, and let the Board know where you stand
2 in terms of leasing and what it is that's outstanding that
3 requires pooling.

4 A. Yes. We have 93.9864% of the coal leased
5 and the coal, oil and gas CBM leased. We're seeking to pool
6 6.0136% of the coal, oil and gas, coalbed interest.

7 Q. And it looks like you have addresses for
8 everyone?

9 A. Yes, we do.

10 Q. With regard to the well, what's your cost
11 estimate?

12 A. \$242,129.51. It was permit number 5257,
13 drilled to an estimated depth of 2,532 feet.

14 Q. And it appears that there is no escrow
15 requirement...required here for conflicts either?

16 A. That's correct.

17 Q. Let's turn to AZ-100. Let's see if you can
18 find Exhibit A, page two for us.

19 A. Yes.

20 Q. Okay.

21 A. We have a 100% of the coal leased. 100% of
22 the coal owners coalbed methane leased. 97.5804% of the oil
23 and gas owners coalbed methane leased. We're seeking to pool
24 2.4196% of the oil and gas coalbed methane interest.

--

1 Q. It looks like you have addresses for
2 everybody and you were able to identify everyone.

3 A. We have.

4 Q. With regard to the well, what's the cost
5 estimate?

6 A. \$250,542.77. It's permit number 5551. It's
7 estimated depth is 2639.

8 Q. And we've got an Exhibit E here which would
9 indicate that there is escrow required because of some
10 conflicts, is that correct?

11 A. Yes, it is.

12 Q. And the tracts we would be talking about
13 having escrow accounts, or sub-accounts, set up for would be
14 Tracts 1A and 1D, correct?

15 A. That's correct.

16 Q. And then we've also got an Exhibit EE, which
17 indicated, does it not, that there have been some owners
18 who...or some conflicting claimants who have entered into
19 split agreements, correct?

20 A. There has.

21 Q. And are you requesting that the Board in its
22 order provide that the folks identified in Exhibit EE be paid
23 directly by the operator and that their funds not be... not
24 be escrowed?

--

1 A. That's correct.

2 Q. And what...what are the lease terms that you
3 have offered...successfully offered to the folks that you've
4 been able to lease here?

5 A. Our standard coalbed methane lease is dollar
6 per acre per year, a five year paid term with a one-eighth
7 production payment.

8 Q. And are you recommending that the Board
9 incorporate those terms in any order it might issue with
10 regard to people who are deemed to have been leased?

11 A. Yes, we are.

12 Q. Is it your opinion that the development plan
13 disclosed by the applications and related exhibits in both of
14 these units is a reasonable plan to develop and produce the
15 coalbed methane under these units?

16 A. Yes, it is.

17 Q. And is it your opinion that between the
18 leases that you have obtained and the effect of a pooling
19 order, if one is entered in both of these instances, that
20 those two things, the leasing and the pooling, will serve to
21 protect the correlative rights of all owners and claimants in
22 these two units?

23 A. Yes, it will.

24 MARK SWARTZ: That's all I have.

--

1 BENNY WAMPLER: Questions from members of the
2 Board?

3 (No audible response.)

4 BENNY WAMPLER: Mr. Arrington, when you're locating
5 a proposed...identifying a proposed well location within the
6 drilling unit, even though this is within the drilling unit,
7 do you...does your company target the center of that unit as
8 much as possible? What drives the ultimate location?

9 LESLIE K. ARRINGTON: The ultimate location is
10 several factors: Topography, property, mine works. Do we
11 target the center? We target the location that we can
12 ultimately come up with. Then there's times we have to work
13 around property owners. As you know, the topography in the
14 area that we're in is pretty tough relief in various...
15 numerous locations. Then we also have to work around the
16 other coal operators. So, yeah...can we located them in the
17 center? Very seldom. Very seldom can we get there.

18 BENNY WAMPLER: Other questions from members of the
19 Board?

20 MASON BRENT: I just have one. On these two items,
21 Mr. Arrington, when you estimated production, I notice you
22 narrowed it considerably down to 125 to 250. Is that a
23 function---?

24 LESLIE K. ARRINGTON: Yes, sir. That was...that

--

1 was a function of the numbers that we've used in the Nora
2 Field. I just used those, you know, since that's what the
3 testimony had been in the past.

4 MARK SWARTZ: Well, the evidence offered when the
5 Nora Field rules were put into effect, and the Oakwood Rules,
6 was that the Nora was less gas rich from an upper limits
7 standpoint. It's not just that the units are smaller. I
8 mean, you've got the 80 acre versus these units are 58.7 and
9 58.74, I think. But that's not the only explanation, right?

10 LESLIE K. ARRINGTON: Correct. You might find a
11 very eastern end of Nora may have a little higher production.
12 But as you go...as you start moving to the west, it is going
13 to go substantially lower.

14 MASON BRENT: Thank you.

15 BENNY WAMPLER: Other questions?

16 (No audible response.)

17 BENNY WAMPLER: Do you have anything further?

18 MARK SWARTZ: No.

19 BENNY WAMPLER: Is there a motion?

20 JIM MCINTYRE: I move that we approve.

21 DONALD RATLIFF: Second.

22 BENNY WAMPLER: Motion to approve and second. Any
23 further discussion?

24 (No audible response.)

--

1 BENNY WAMPLER: All in favor, signify by saying
2 yes.
3 (All members signify by saying yes.)
4 BENNY WAMPLER: Opposed, say no.
5 (No audible response.)
6 BENNY WAMPLER: You have approval. The next item
7 on the agenda is a petition from Pocahontas Gas Partnership
8 for pooling of a coalbed methane unit CC-31, docket number
9 VGOB-03-04/15-1141. We'd ask the parties that wish to
10 address the Board in this matter to come forward at this
11 time.
12 MARK SWARTZ: Mark Swartz and Les Arrington.
13 BENNY WAMPLER: The record will show there are no
14 others. You may proceed.
15 MARK SWARTZ: Mr. Chairman, if you could also call
16 FF-33. These are both Oakwood units and they've got the same
17 applicant.
18 BENNY WAMPLER: We'll also call a petition from
19 Pocahontas Gas Partnership for pooling of a coalbed methane
20 unit FF-33, docket number VGOB-03-04/15-1142. I ask the
21 parties that wish to address the Board in this matter to come
22 forward at this time.
23 MARK SWARTZ: Mark Swartz and Les Arrington again.
24 BENNY WAMPLER: The record show there are no

--

1 others. You may proceed.

2

3 LESLIE K. ARRINGTON

4 DIRECT EXAMINATION

5 QUESTIONS BY MR. SWARTZ:

6 Q. Les, I'll remind you again that you're still
7 under oath.

8 A. Yes, sir.

9 Q. State your name for us?

10 A. Leslie K. Arrington.

11 Q. Who do you work for?

12 A. CNX Gas Company.

13 Q. With regard to these two applications, who
14 is the applicant?

15 A. Pocahontas Gas.

16 Q. Pocahontas Gas Partnership is a Virginia
17 General Partnership?

18 A. Yes, sir.

19 Q. Does it have two partners who are Consol
20 Energy, Inc. and Consolidation Coal Company?

21 A. Yes, it does.

22 Q. Who is Pocahontas Gas Partnership asking be
23 appointed the Board's designated operator?

24 A. Pocahontas Gas.

--

1 Q. Does Pocahontas Gas have a blanket bond on
2 file?
3 A. Yes, it does.
4 Q. Has it registered with the Department of
5 Mines, Minerals and Energy?
6 A. Yes, it has.
7 Q. And is it authorized to do business in the
8 Commonwealth?
9 A. Yes.
10 Q. In this instance, have you listed all of the
11 respondents in both the notice of hearing and Exhibit B-3?
12 A. Yes, we have.
13 Q. Do you want to add or subtract any
14 respondents today?
15 A. No.
16 Q. Is it true that it appears that you have no
17 revised exhibits either? So, that the Board can attend to
18 the exhibits that came with the original applications?
19 A. Correct.
20 Q. Okay. These are Oakwood units, is that
21 correct?
22 A. Yes, they are.
23 Q. And they would be frac units under Oakwood
24 I?

--

1 A. Yes.

2 Q. The first unit, I think, has 80 acres, that
3 being CC-31, and the FF-33 unit is a boundary unit, which has
4 89.51 acres, is that correct?

5 A. Yes, it is.

6 Q. Do your applications and the plats attached
7 thereto contemplate one frac well per unit and in both
8 instances, is that frac well located in the drilling window?

9 A. Yes...yes, it does. Yes.

10 Q. What did you do to notify the respondents of
11 this hearing today?

12 A. We mailed by certified mail return receipt
13 requested on March the 13th, 2003. For CC-31, we published
14 in the Bluefield Daily Telegraph on March the 22nd; and also
15 FF-3 we published in the Bluefield Daily Telegraph on March
16 the 22nd of 2003.

17 Q. And have you filed with the Board today your
18 proofs of publication that you...the certificates that you've
19 received from the newspapers, as well as your proofs
20 regarding mailing?

21 A. Yes, we did.

22 Q. Turning first to CC-31, if you could find
23 Exhibit A, page two, and tell the Board about your efforts to
24 lease and what it is you're seeking to pool.

--

1 A. Yes, we have 93.8125% of the coal leased in
2 CC-31. We have 93.8125% of the coal owners claim to coalbed
3 methane leased. 91.2125% of the oil and gas owners claim to
4 coalbed methane leased. We're seeking to pool 6.187% of the
5 coal owners claim to coalbed methane; and 8.7875% of the oil
6 and gas owners claim to coalbed methane in CC-31.

7 Q. The coal interest, Les, here, is it...I
8 think you may have left off a last decimal. Is it 6.1875%
9 you're seeking to pool?

10 A. I did. Yes, I did leave 5 off.

11 Q. Okay. So, that's...that's the percentage?

12 A. Yes, it is.

13 Q. Okay. And the...continuing through with
14 unit CC-31. On Exhibit B-3, it looks like you've accounted
15 for everyone's names and addresses, correct?

16 A. Correct.

17 Q. Okay, then if you go to well information,
18 what's the estimated cost here?

19 A. \$232,255.82. Drilled to an estimated depth
20 of 2,079 feet, permit number 5691.

21 Q. Since you've filed this, you've got a
22 permit?

23 A. Yes.

24 Q. Then you've got an Exhibit E, is that

--

1 correct?

2 A. We do for Tract 1B and 1F.

3 Q. Okay. So, you're suggesting to the Board
4 that sub-accounts to escrow for conflicting claims in those
5 two tracts be established, correct?

6 A. That's correct.

7 Q. And then you also have tendered to the Board
8 with the application a fairly extensive list of folks who
9 have entered into split agreements, which is evidenced by
10 Exhibit EE, is that correct?

11 A. Yes.

12 Q. And are you requesting that the Board in any
13 order it enters allow those folks listed in Exhibit EE to
14 receive their royalty directly from the operator rather than
15 requiring escrow?

16 A. That's correct, we do.

17 Q. With regard now to unit FF-33, A, page two
18 indicates what with regard to the success of your leasing and
19 your need to pool?

20 A. Yes. We have a 100% of the coal leased
21 beneath this unit. 100% of the coal owners claim to coalbed
22 methane. 92.8388% of the oil and gas owners claim to coalbed
23 methane. 7...we're seeking to pool 7.1612% of the oil and
24 gas owners claim to coalbed methane.

--

1 Q. It looks like you've accounted for all of
2 the names of folks and their addresses, correct?

3 A. Yes, we have.

4 Q. With regard to the well, what's the
5 projected cost?

6 A. \$246,521.24. Permit number is 5649.
7 Estimated depth is 2,633 feet.

8 Q. A requirement of escrow because of
9 conflicting claims, which is addressed by Exhibit E, is that
10 correct?

11 A. Yes. For Tract 1A, B, C, F, G, H, I and J.

12 Q. And then you also...once again, we have a
13 split exhibit or some split agreements and we have an Exhibit
14 EE, and are you requesting that the Board authorize the
15 operator...designated operator to pay the folks listed in
16 Exhibit EE pertaining to unit FF-33 directly rather than
17 escrowing their funds?

18 A. Yes, we are.

19 Q. With regard to the folks that you were able
20 to lease in both of these units, what were the lease terms?

21 A. Our standard lease offer for coalbed methane
22 is a dollar per acre per year, five year paid up term and
23 one-eighth production payment.

24 Q. And are you recommending that the Board

--

1 utilize those terms in any order it might enter?

2 A. Yes, we are.

3 Q. Is it your opinion that the plan to develop
4 these two Oakwood units as disclosed by the application and
5 the related exhibits represents a reasonable plan to develop
6 coalbed methane from within and under these units?

7 A. Yes, we do.

8 Q. And is it your opinion that between the
9 leasing efforts that you have been able to pursue to a
10 successful conclusion and a pooling order entered with regard
11 to these two units, that the correlative rights of all of the
12 owners and claimants would be protected?

13 A. Yes, they are.

14 MARK SWARTZ: That's all I have, Mr. Chairman.

15 BENNY WAMPLER: Questions from members of the
16 Board? Mr. Garbis.

17 DENNIS GARBIS: Mr. Arrington, I'm confused. In
18 item number seven you were...you were assigned here under
19 Buchanan Production and in this item, you're under Pocahontas
20 Gas Partnership and you were introduced by Mr. Swartz as
21 working for CNX. Do you work for all of the above, none of
22 the above, A & C only, C & D only? Who do you work for?

23 LESLIE K. ARRINGTON: Yes. CNX Gas Company. But
24 CNX Gas Company is wholly owned by Consol Energy and all of

--

1 the parties you've mentioned are also owned entirely one way
2 or the other.

3 DENNIS GARBIS: So, you just sign wherever you want
4 to sign?

5 LESLIE K. ARRINGTON: Well...hopefully by the time
6 the hearings are over today that will be corrected.

7 MARK SWARTZ: Well, Buchanan Production has no
8 employees, right?

9 LESLIE K. ARRINGTON: That's correct.

10 MARK SWARTZ: How about PGP?

11 LESLIE K. ARRINGTON: Well, PGP does have employees
12 or did have.

13 MARK SWARTZ: Did have?

14 LESLIE K. ARRINGTON: Did have.

15 DENNIS GARBIS: Well, if he's signing for Buchanan,
16 how could there not be any employees?

17 MARK SWARTZ: He's an authorized representative.
18 They don't have a payroll. They don't have...they've never
19 had an employees.

20 DENNIS GARBIS: Interesting. Okay, I just thought
21 I'd get a little clarification.

22 MARK SWARTZ: That's okay. And hopefully today
23 we're going...we're going to be changing to CNX at the end.
24 We've been talking about it. It may happen today or it may
--

1 not. But we're trying to...of course, they'll probably
2 change the name in July. We're trying to get it all under
3 one name.

4 LESLIE K. ARRINGTON: By the time the day is over
5 we should have, I guess, 100% of the names into CNX Gas
6 Company.

7 BOB WILSON: You really scare me when you say you
8 may change names again in July.

9 (Everyone laughs.)

10 LESLIE K. ARRINGTON: You know how those things
11 happen.

12 MARK SWARTZ: Well, it's not the first time.

13 DENNIS GARBIS: Just a lawyers relief act or
14 something?

15 MARK SWARTZ: Well, the problem is the leases were
16 taken by these partnership. Most of the large leases has
17 have anti-assignment provisions. So, if we went to our
18 lessors, they would immediately have their hands out for
19 money. So...for any minimal change. So, we cannot dissolve
20 these partnerships for real estate title reasons. So, in
21 spite of the fact that these entities were owned at one point
22 by Oxydental Petroleum and their subsidiaries and then by MCN
23 out of Detroit and their subsidiaries and now they're back to
24 Consol Energy, Buchanan Production, Oakwood Gathering and

--

1 Pocahontas Gas Partnership have continued to survive and will
2 survive as long as we have lease agreements probably because,
3 you know, they're parties to real estate transaction and you
4 can't...and that's the reason for all of this insanity. I
5 mean, I understand your question. It's a legitimate
6 question. But we have constraints on us from title issues
7 and lease agreements that we cannot just collapse
8 partnerships that are parties as lessees to lease agreements
9 where there are anti-assignment provisions. That has been
10 the problem. So, that...you know, that...there's an actual
11 reason for this. You know, which at least from an operating
12 standpoint, we're going to try to simplify. But it's not
13 going to completely go away.

14 BENNY WAMPLER: Other questions from members of the
15 Board?

16 (No audible response.)

17 BENNY WAMPLER: Do you have anything further?

18 MARK SWARTZ: No.

19 BENNY WAMPLER: Is there a motion?

20 DONALD RATLIFF: I move that we adopt...that we
21 approve.

22 DENNIS GARBIS: Second.

23 BENNY WAMPLER: Motion to approve and second. Any
24 further discussion?

--

1 (No audible response.)

2 BENNY WAMPLER: All in favor, signify by saying

3 yes.

4 (All members signify by saying yes.)

5 BENNY WAMPLER: Opposed, say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval.

8 MARK SWARTZ: You can call these together.

9 BENNY WAMPLER: The next items on the agenda is a

10 petition from Buchanan Production Company for a combination

11 of drilling unit allowables for units R-17 and Q-17, docket

12 number VGOB-03-04/15-1143; and a petition from Buchanan

13 Production Company for a combination of drilling unit

14 allowables for units S-17 and S-19, docket number VGOB-03-

15 04/15-1144. We'd ask the parties that wish to address the

16 Board in these matters to come forward at this time.

17 (Anita Tester passes out Exhibits.)

18 MARK SWARTZ: Mark Swartz and Les Arrington.

19 BENNY WAMPLER: The record will show there are no

20 others. You may proceed.

21 MARK SWARTZ: The order that the Board entered

22 solving the sealed gob production problem in the Beatrice

23 Mine only allows us to produce 350 million from any given

24 well without coming back to the Board to tell you that we

1 want to produce more or we've already done that and we want
2 to recycle the well to produce another allowable. Both of
3 these applications are precisely that.

4 The...if you look at S-17 and 19...is that the
5 first one?

6 (No audible response.)

7 MARK SWARTZ: Actually, R-17 and Q-17 is the first
8 one on your docket. If you go to the application or the
9 miscellaneous petition, down on the first page of the
10 miscellaneous petition, there's a paragraph five, status of
11 units under consideration. It tells you that both of these
12 units are 80 acre units. Both of them are entirely in the
13 Beatrice Mine. Sometimes we've got a unit that isn't...
14 that's an 80 acre but isn't completely in the Beatrice Mine.
15 So, here you've got two 80 acre units which have a 160 acres
16 which is all in the mine area. R-17 has the well and both of
17 these units are voluntary units. So, you did not pool. And
18 we are requesting that you allow us to combine the production
19 of these two units and allow us to produce 700,000 from the
20 well in R-17.

21 But the other application, one of the units is a
22 voluntary unit and one is a pooled unit. So, if you look at
23 the same location on the other application today, or
24 miscellaneous petition, we have S-17 and S-19 again. These

--

1 are 80 acre units that are entirely in the Beatrice Mine
2 sealed gob area. So, we don't have to pro-rate part of the
3 350. S-17 has the well. We've already produced the 350,000
4 cubic foot allowable from S-17 and we are asking to be
5 allowed to produce another 350,000 for the benefit of S-19,
6 which is a voluntary unit.

7 As I recall, the order that you guys entered
8 regarding the Beatrice Mine, this is just a come-back
9 provision to sort of let you know where we are, which is why,
10 you know, we're not offering all that testimony here. But
11 certainly, if you have any questions of Les, you know, he's
12 here and he's prepared to answer it. But in a nutshell,
13 that's why we're here and what we're asking for.

14 BENNY WAMPLER: Mr. Arrington, are you in agreement
15 with the briefing that Mr. Swartz just did?

16 LESLIE K. ARRINGTON: Yes, sir.

17 BENNY WAMPLER: On S-19, that one is a pooled unit,
18 is that correct?

19 LESLIE K. ARRINGTON: S-19 is not.

20 BOB WILSON: S-17.

21 BENNY WAMPLER: S-17 is?

22 LESLIE K. ARRINGTON: S-17 was. Uh-huh.

23 BENNY WAMPLER: Okay.

24 MARK SWARTZ: And you'll notice in that one we

--

1 actually mailed to give those folks notice.

2 BENNY WAMPLER: Okay. Questions from members of
3 the Board?

4 KEN MITCHELL: One question, Mr. Chairman.

5 BENNY WAMPLER: Mr. Mitchell.

6 KEN MITCHELL: Exhibit 12 or item 12 under Exhibit
7 A showing the actual location, I must be missing something.
8 I don't see the location. You know, you may show it to me
9 and I'll be very embarrassed here today. But it shows a map
10 of a city.

11 LESLIE K. ARRINGTON: Yes, sir. Is that not unit
12 S-19?

13 KEN MITCHELL: S-19.

14 LESLIE K. ARRINGTON: Yes, sir. The well is
15 actually located in unit S-17. We're only asking to take the
16 production allowed for that unit and bring it out of the well
17 S-17.

18 KEN MITCHELL: So, production allowed in that
19 acreage will be transferred over to the other unit?

20 LESLIE K. ARRINGTON: Yes, sir.

21 MARK SWARTZ: It's not on either plat, though.

22 LESLIE K. ARRINGTON: It should be on---.

23 MARK SWARTZ: It should have been on S-17, but it's
24 not.

1 BENNY WAMPLER: Isn't it right there at the...near
2 that 1A in that top left hand corner on S-17...CBM Q-17? No,
3 I guess not. You just answered my question. You've got two,
4 but you're not showing S. It's not in either one.

5 LESLIE K. ARRINGTON: It should. We'll have to
6 resubmit the plat for you and it has S-17 showing the actual
7 well location.

8 (Mark Swartz and Leslie K. Arrington confer.)

9 BENNY WAMPLER: The well is in S-17?

10 LESLIE K. ARRINGTON: Yes, sir, it is. S...the
11 well number is S-17-24, I believe.

12 BENNY WAMPLER: And you'll submit the plat---?

13 LESLIE K. ARRINGTON: Yes, sir.

14 BENNY WAMPLER: ---to Mr. Wilson?

15 LESLIE K. ARRINGTON: Yes, sir.

16 DENNIS GARBIS: Mr. Chairman---.

17 BENNY WAMPLER: Yes, Mr. Garbis.

18 DENNIS GARBIS: ---I have some questions, please.

19 BENNY WAMPLER: Yes.

20 DENNIS GARBIS: So, what you desire to do, correct
21 me if I'm wrong, I'm trying to feel my way through this, you
22 want to take the 350 million cubic feet from S-19 and
23 withdraw that from S-17.

24 LESLIE K. ARRINGTON: Yes, sir.

--

1 DENNIS GARBIS: What happens to S-18?

2 LESLIE K. ARRINGTON: I believe...I'll have to

3 look. I may have something.

4 DENNIS GARBIS: You know, if they are right next to

5 each other, you could make a better case, but when there's

6 that separation.

7 LESLIE K. ARRINGTON: I believe it has already been

8 combined into another unit, S-18.

9 DENNIS GARBIS: You believe?

10 LESLIE K. ARRINGTON: Do you remember, Anita? I

11 can't remember. I may also have it. Hold on.

12 ANITA TESTER: Is it colored in on the map?

13 LESLIE K. ARRINGTON: It's colored in. Right.

14 ANITA TESTER: So, you can't tell which one.

15 LESLIE K. ARRINGTON: Can't tell which one. Just a

16 minute. I may have it actually.

17 DENNIS GARBIS: I think that's relevant...isn't

18 this relevant if S-18 is...what the disposition of that is?

19 LESLIE K. ARRINGTON: Yes. S-18 was combined with

20 unit T-17 back sometime ago.

21 BENNY WAMPLER: Does that map show the location of

22 the---?

23 LESLIE K. ARRINGTON: Of the wells. What I've done

24 here---.

--

1 BENNY WAMPLER: That's what he was wanting. That's
2 what he was asking so he could see that relationship.

3 LESLIE K. ARRINGTON: Yes. This was just my work
4 print as we was putting this together. You can see the
5 Beatrice boundary. That's the actual field boundary here.
6 And our wells, we had some...we had a well in T-16. I think
7 they have in T-17, S-17. Now, that production has started
8 moving along, we've started to adding additional units,
9 combining them. What we're trying to do is just develop off
10 of these existing wells and develop, you know, out.

11 DENNIS GARBIS: But T-18 is not colored or am I---.

12 LESLIE K. ARRINGTON: 18...T-18? T-18 is---.

13 DENNIS GARBIS: T-18, yeah.

14 LESLIE K. ARRINGTON: Yes. T-18 is here.

15 DENNIS GARBIS: Right. You said that was combined?
16 Would that---?

17 LESLIE K. ARRINGTON: No S-18 was the one I was
18 speaking to.

19 DENNIS GARBIS: But didn't you say the S-18 and T-
20 18 were combined?

21 LESLIE K. ARRINGTON: No, I---.

22 MARK SWARTZ: T-17.

23 LESLIE K. ARRINGTON: T...just a second, I'll have
24 to look back.

1 BENNY WAMPLER: I believe he said 17.

2 DENNIS GARBIS: I'm interested in S-18.

3 LESLIE K. ARRINGTON: Okay. S-18, okay, it has
4 been combined with T-17. See, T-17 was just a small
5 production unit if you can see the red line. See, I had it
6 cut off.

7 DENNIS GARBIS: Uh-huh.

8 LESLIE K. ARRINGTON: We only had a very small
9 portion of the 350 million. It was something like a 100
10 million that we could produce out of the T-17 originally.
11 So, we combined it with S-18 originally.

12 DENNIS GARBIS: So, how much did you get...how much
13 were you allowed to take out from S-18 from T-17?

14 MARK SWARTZ: Well, we got 350---.

15 LESLIE K. ARRINGTON: 350.

16 MARK SWARTZ: ---from S-18---.

17 DENNIS GARBIS: 350 for S-18.

18 MARK SWARTZ: ---and then whatever his percentage
19 is...see, we can only...do you see that red line going
20 through there?

21 DENNIS GARBIS: Yeah, I do. I do.

22 MARK SWARTZ: Let's say that's a third.

23 DENNIS GARBIS: Right.

24 MARK SWARTZ: If that's a third, we could only

--

1 produce slightly less than 120 from that unit because 2/3 of
2 it is outside of the Beatrice Mine. So, it would have been
3 the 350 from the full unit and how much?

4 LESLIE K. ARRINGTON: 107.

5 MARK SWARTZ: And a 107 from the partial unit.

6 BENNY WAMPLER: And what he's...I mean, I think
7 what Mr. Garbis is getting at is, why aren't you keeping
8 these combinations side by side in some form or fashion.

9 MARK SWARTZ: Correct.

10 BENNY WAMPLER: Here you've got...is that right?

11 DENNIS GARBIS: That's right. Now, I understand
12 where you're wanting to go. But it's kind of a reach when
13 you're going from S-17 to S-19. I guess, it's...I can
14 understand it must be prolific. And, of course, I guess the
15 other understanding is that correlative rights are being
16 protected from this. Understood.

17 MARK SWARTZ: Well, I guess to give you kind of a
18 it doesn't matter answer that you might want to reflect on,
19 The Board when it created the field rules for Beatrice was
20 concerned with precisely what you're talking about. It took
21 the total anticipated production and divided it by the number
22 of units and assigned 350. So, basically, you know, if you
23 want to produce all of the gas out of this mine, you're going
24 to have produce everyone of these units because we're going

--

1 to run out of 350 at some point and come back and have to do
2 more leasing. So, I mean, that's...it's kind of a...I mean,
3 that's not necessarily what you want to hear, but that's the
4 reality. I mean, the Board sort of factored---.

5 DENNIS GARBIS: Well, that's fine. I want to hear
6 reality.

7 MARK SWARTZ: The Board sort of said, you know,
8 what's to...what's to make you drill up all of these units or
9 piggy back all of these units and that was the mechanism the
10 Board devised when they allowed this kind of development.
11 They said if you want...you know, here's the amount of gas we
12 think you're going to get out of here. If you want to get
13 all of it, you've got do something in every unit in this
14 mine. So, that was...now, in terms of...you know, I'll just
15 ask Les, I assume that leasing problems drive to some extent
16 where you are and where you are not?

17 LESLIE K. ARRINGTON: Yes, it will.

18 MARK SWARTZ: You're going to do the units if you
19 have title on and leasing on first. I mean, normally.

20 LESLIE K. ARRINGTON: That's right.

21 MARK SWARTZ: So, I mean, that is...you know, there
22 are some of that here. And doesn't Ratliff have one of those
23 units? Which one? Do you know?

24 LESLIE K. ARRINGTON: I'm not sure he's down in

--

1 this area, Mark. But I can't---.

2 MARK SWARTZ: Because there's somebody else in
3 there as well, you know, that we would not be producing.

4 DENNIS GARBIS: That answers my question. Thank
5 you.

6 BENNY WAMPLER: Other questions from members of the
7 Board?

8 (No audible response.)

9 BENNY WAMPLER: Do you have anything further?

10 MARK SWARTZ: No.

11 BENNY WAMPLER: Is there a motion?

12 DONALD RATLIFF: I move that we approve.

13 KEN MITCHELL: Second that we approve.

14 BENNY WAMPLER: Motion and second. Any further
15 discussion?

16 (No audible response.)

17 BENNY WAMPLER: All in favor, signify by saying
18 yes.

19 (All members signify by saying yes.)

20 BENNY WAMPLER: Opposed, say no.

21 (No audible response.)

22 BENNY WAMPLER: You have approval. Thank you. We
23 have two other items to take up. One is just, again, a
24 reminder that the next month's Board meeting will be on May
--

1 the 13th. It will be in the auditorium downstairs.

2 This past session of the General Assembly, there
3 was a fee legislation and Mr. Wilson is going to discuss an
4 item for the Board's approval, the increase of a fees for
5 items that come before the Board that's in the legislation.

6 BOB WILSON: The...as Mr. Wampler said, the General
7 Assembly approved a bill basically regarding the Department
8 of Mines, Minerals and Energy permit fees. I've gotten
9 several excerpts on here. It increases the cost of permits
10 and licenses issued by the Department of Mines, Minerals and
11 Energy. Twelve of the fees are set back statute while two
12 fees are set by regulation. The Bill contains an enactment
13 clause directing the Virginia Gas and Oil Board and the
14 Department of Mines, Minerals and Energy to increase those
15 two fees and exempts those regulatory amendments from the
16 administrative process act. This bill is identical to the
17 Senate bill 1173. This has been signed into law and will go
18 into effect July 1. The majority of the fees that were
19 considered in this bill are set by statute. These are mostly
20 permitting fees that we deal with. The two fees that are set
21 by regulation, one of those would be the Department...I mean,
22 the Division of Gas and Oil's fees for transfer of permit
23 rights; and the other is the Gas and Oil Board designated
24 fees for pooling, unitization and spacing applications.

--

1 One of the important things about this is that
2 under normal circumstances, if we change...if the regulation
3 was changed, it would have to go through the APA process, the
4 Administration Process Act processes, which means we would
5 have to put it out for public comment and various things of
6 that sort. The legislature exempted these particular fee
7 changes from that process. So, basically, it will become a
8 part of our statute.

9 The second section there is basically what the
10 statute will read. "The Virginia Gas and Oil Board shall
11 increase the fee for filing and application for the
12 establishment of a unit spacing or pooling orders as provided
13 for in 4VAC25160-30...", that's the regulation citation,
14 "...to \$130. Action by the Board to increase this fee shall
15 be exempt from the provision of the Administrative
16 processes...Process Act." The law has been passed, as I
17 said, and signed. However, the Board is given the authority
18 to issue regulation and to set application fees. That's part
19 of article two, the segment I've taken out of 45.1-361.15
20 here. So, basically there needs to be authorization by the
21 Board to make this change in regulation. The reason we need
22 to address it now is to have time to do all the
23 administrative necessities of getting this into the
24 regulation prior to July 1 when it goes into effect.

--

1 The increase from \$100 to \$130 is not something
2 that was pulled out of the hat. As I'm sure most of you
3 know, there have been no increase in fees for about twelve
4 years now. This \$30 increase represents, I believe, about
5 85% of the rate inflation.

6 BENNY WAMPLER: 80%.

7 BOB WILSON: 80% of the rate of inflation. So,
8 actually it's still below inflation for that period of time.
9 And I might add when we...when this consideration came up,
10 the fact that basically we have to increase fees in order to
11 make up for lost State revenues, that the industry has been
12 extremely supportive of this and has actually assisted
13 getting this legislation passed.

14 Basically, the task before the Board is we need to
15 approve the adoption of this change in the regulation.

16 KEN MITCHELL: Mr. Chairman---?

17 BENNY WAMPLER: Mr. Mitchell.

18 KEN MITCHELL: ---could I ask our attorney a
19 question?

20 BENNY WAMPLER: Sure.

21 KEN MITCHELL: Reading this it says, "Establishment
22 of units, spacing of units and pooling orders." But what we
23 just did on combining units isn't listed here unless I'm
24 missing that somewhere. Item eleven and twelve, I think,

--

1 what we just did of combining doesn't show an increase in
2 fees. Is that an oversight by the people that wrote the text
3 of the legislation or am I...am I missing it?

4 SHARON PIGEON: Well, I didn't write the
5 legislation. So, I can't answer for them.

6 KEN MITCHELL: No, no.

7 (Laughs.)

8 KEN MITCHELL: Could you---?

9 BENNY WAMPLER: Bob, do you want to take a shot at
10 it?

11 BOB WILSON: This is the original statement that
12 was put into out...I guess the original regulation for this
13 particular Board. When it was reconstituted as a Gas and Oil
14 Board, this was the statement of funding. What has been
15 practiced is that any application having to do with
16 units...any application having to do with spacing, any
17 application having to do with pooling, has received fees.

18 KEN MITCHELL: I don't...I don't disagree with you,
19 Bob, but if I were on their side, I'd send in a \$100
20 application on a combining fee because it wasn't called out
21 in the State legislation. I'm just saying---.

22 BOB WILSON: Sure. Absolutely. I understand.

23 BENNY WAMPLER: Here's the thing, though. If we
24 change this to \$130, we won't we have a \$100 provision. Do

--

1 you understand?

2 KEN MITCHELL: Uh-huh.

3 BENNY WAMPLER: In other words, what Bob is saying
4 is everything a \$100...now, is \$100. Everything then will be
5 \$130 if it's changed.

6 KEN MITCHELL: Uh-huh.

7 JIM MCINTYRE: Can't a Board...can the Board change
8 that wording in this? Does it have the authority to do that?

9 BENNY WAMPLER: It could. The danger we get into
10 is every...I mean, the Board makes decisions all the time on,
11 you know, case by case...different factors that drive that
12 decision and we could have other things that would come up
13 like that, that might not be specifically listed. That
14 wouldn't mean you couldn't come back every time and add it to
15 it. You know, is it necessary, probably not. I'm not
16 dismissing your question. A good question. But I believe
17 the intent and certainly the practice is that everything that
18 comes before the Board is now \$100 and everything coming
19 before the Board subsequent to this date, should the Board
20 adopt this, would be \$130.

21 BOB WILSON: And if...I think, in further response
22 to what you were saying, is if we attempted to change this
23 wording other than to change that dollar amount, we'd be back
24 under the Administrative Process Act.

--

1 BENNY WAMPLER: That's right.

2 BOB WILSON: We couldn't change that at this point
3 in time without going back before the---.

4 BENNY WAMPLER: Right. The General Assembly set
5 the \$130 and directed us to do that. If we change anything
6 else, we'd have to go through the APA.

7 DENNIS GARBIS: Question, Mr. Chairman.

8 BENNY WAMPLER: Mr. Garbis.

9 DENNIS GARBIS: Is the Division of Gas and Oil self
10 supporting?

11 BOB WILSON: No, sir.

12 BENNY WAMPLER: Absolutely not.

13 DENNIS GARBIS: And the other question I have is
14 the if General Assembly approved this, I mean it's a done
15 deal, isn't it?

16 BENNY WAMPLER: Well, the way the legislation is
17 written, this is a unique provision that it's not a done deal
18 until the Board adopts it. If we have direction from the
19 General Assembly to do it, but we need action of the Board.
20 They're actually directing the Board to adopt this \$130 fee.

21 BOB WILSON: It can't officially be done without a
22 Board action because the---.

23 BENNY WAMPLER: It can't be implemented.

24 BOB WILSON: ---Board has the authority to...to

--

1 promulgate regulation.

2 KEN MITCHELL: I think it's codifying the law.

3 BENNY WAMPLER: In this case, putting it in the
4 regulations.

5 KEN MITCHELL: Mr. Chairman, I'll make a motion for
6 the new fees to be \$130 versus the old fees and that we bring
7 our regulations up to be codified with the State regulation.

8 DONALD RATLIFF: Second.

9 BENNY WAMPLER: Motion and second. Any further
10 discussion?

11 (No audible response.)

12 BENNY WAMPLER: All in favor, signify by saying
13 yes.

14 (All members signify by saying yes.)

15 BENNY WAMPLER: Opposed, say no.

16 (No audible response.)

17 BENNY WAMPLER: You have approval. Do you have
18 anything further, Mr. Wilson?

19 BOB WILSON: No, sir.

20 BENNY WAMPLER: That concludes it. Any Board
21 members?

22 BOB WILSON: I think these gentlemen want to
23 discuss the change to CNX from Consol, which would clarify
24 some of the questions that were being asked earlier.

--

1 As of April the 1st, the operations that were
2 assigned to Consol Energy and Pocahontas Gas Partnership came
3 under the operation of CNX Gas, L.L.C. We have changed all
4 of our permits to reflect that change. We are in the process
5 of changing bonding from Consol Energy and Pocahontas Gas
6 Partnership to CNX. There are...as we have mentioned, I
7 think, maybe last month, there are procedures that are going
8 to be necessary to establish the continuity of Board orders
9 between these other entities and CNX because of the name
10 change. It's my understanding that it is simply that. These
11 were wholly owned subsidiaries of Consol. They are all being
12 merged...all Pocahontas Gas Partnership operations and all
13 Consol Energy operations are being merged under CNX. We have
14 taken it as an Administrative name change under our
15 permitting and enforcement offices. The Board will have to
16 take some sort of action to recognize this continuity in
17 here.

18 BENNY WAMPLER: Has all of that been done through
19 the Corporation Commission...State Corporation Commission?

20 BOB WILSON: Yes.

21 MARK SWARTZ: What we did in the past, I think we
22 entered one order where the Board, I think, signed off on it
23 really. I mean, I'm not sure it was really much beyond just
24 allowing it to happen. But we listed all of the units in

--

1 that order---.

2 BENNY WAMPLER: That's right.

3 MARK SWARTZ: ---that had this operator provided

4 that it would now become this operator.

5 BENNY WAMPLER: Right.

6 MARK SWARTZ: That's really what we...it's just...I

7 think we are...if my memory serves me right, your regulations

8 require us to come to you on a voluntary transfer, let you

9 know that it's happening so that you have an opportunity to

10 say yea or nay.

11 BENNY WAMPLER: Right.

12 MARK SWARTZ: That's...that's...you know, that's

13 why we've been here. You know, we got the permitting thing

14 squared away. But we need to make everything congruent.

15 So---.

16 BOB WILSON: And there needs to be documentation to

17 provide the bridge between these old names and the new names

18 such that if somebody searches the records at the Courthouse

19 and finds CNX next to it---.

20 BENNY WAMPLER: Right.

21 BOB WILSON: ---they can follow the chain of that

22 back---.

23 MARK SWARTZ: And that's what that order would

24 accomplish.

--

1 BOB WILSON: Exactly.

2 BENNY WAMPLER: So, everything is docketed in the
3 Courthouse. Everything gets docketed. So, you would have
4 that trail, like Bob said, if you were trying to identify
5 that.

6 MARK SWARTZ: Do you want us to come back here with
7 an order or get an order to Sharon that has that complete
8 list and, you know, just track the last orders? You guys can
9 take a look at them and decide, if that's what you want to
10 do. I mean, what do we need to do to get closure?

11 BENNY WAMPLER: You would need to come...present
12 the Board a draft order that would list all of the...all of
13 the units that would come under...all of the transactions
14 that would come under the new CNX.

15 MARK SWARTZ: We'll just...we'll just bring that
16 with us then in three weeks or whatever that is. I mean,
17 we'll try to get it to you before then. But...okay, that
18 works.

19 BENNY WAMPLER: Anything further?

20 KEN MITCHELL: Do they change your paycheck every
21 time, Les?

22 LESLIE K. ARRINGTON: No, they don't change mine.
23 (Laughs.)

24 DENNIS GARBIS: That's not what I heard.

--

1 BENNY WAMPLER: Okay. Thank you very much. That
2 concludes the hearing today.

3

4

5

6 STATE OF VIRGINIA,

7 COUNTY OF BUCHANAN, to-wit:

8 I, SONYA MICHELLE BROWN, Court Reporter and Notary
9 Public for the State of Virginia, do hereby certify that the
10 foregoing hearing was recorded by me on a tape recording
11 machine and later transcribed by me personally.

12 Given under my hand and seal on this the 21st day
13 of April, 2003.

14 NOTARY PUBLIC

15

16 My commission expires: August 31, 2005.

17

18

19

20

21

22

23

24

